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Floor Debate  
March 08, 2011

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[LB20 LB41 LB56 LB100 LB112 LB204 LB229 LB286 LB388 LB389 LB407 LB409  
LB415 LB421 LB464 LB477 LB479 LB512 LB535 LB544 LB546 LB554 LB618 LB629  
LB637 LR40CA LR86 LR87 LR100 LR105 LR106 LR107 LR108 LR109 LR110]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-second day of the One Hundred Second Legislature, First Session. Our chaplain for today is Reverend Zachary Anderson, Conestoga Parish of the United Methodist Church in Lincoln, Senator Campbell's district. Please rise. []

REVEREND ANDERSON: (Prayer offered.) []

SENATOR CARLSON: Thank you, Reverend Anderson. I call to order the forty-second day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

CLERK: I have a quorum present, Mr. President. []

SENATOR CARLSON: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: (Read corrections re LR100, Legislative Journal page 765.) Mr. President, that's all the corrections I have, Mr. President. [LR100]

SENATOR CARLSON: Thank you. Are there any messages, reports, or announcements? []

CLERK: Mr. President, your Committee on Banking,... []

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SENATOR CARLSON: (Gavel) []

CLERK: ...chaired by Senator Pahls, reports LB409 and LB535 to General File with committee amendments attached. I also have a notice of hearing from the Banking Committee. That's all that I have, Mr. President. (Legislative Journal pages 765-772.) [LB409 LB535]

SENATOR CARLSON: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. []

CLERK: General File, LB389, a bill by Senator Cornett. (Read title.) Senator Cornett presented her bill yesterday, Mr. President, and opened on the committee amendments. Those committee amendments are still pending. I do have other amendments and motions to the bill, Mr. President. (AM516, Legislative Journal page 665.) [LB389]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Cornett, you're recognized to give a two-minute summary of your bill and the amendment, AM516. [LB389]

SENATOR CORNETT: Thank you, Mr. President and members of the body. The angel investment tax credit was introduced to spur investment in a wide variety of high technology fields of endeavor, including aerospace, renewable energy, nanotechnology, medical device products, and materials science technology by providing a refundable income tax credit to qualified investors and qualified funds that make investment in high technology small businesses. Yesterday on the floor Senator Carlson brought and a number of senators from the rural areas brought up that they felt that this bill did not do enough for rural Nebraska. Senator Carlson and I had a discussion about that with Senator Schilz afterwards and we are working on an amendment to be filed on Select File that would give people a higher incentive to invest in the rural areas. We recognize their concerns on this. Senator Carlson and I have spoke and he is comfortable with

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that amendment being filed on Select File. In regards to the current committee amendment, AM516, that was the compromise amendment that the Revenue Committee got together on the original bill that limits the investment to \$3 million and sunsets the bill in 2017. I urge the body's support of AM516 and the underlying bill. Thank you. [LB389]

SENATOR CARLSON: Thank you, Senator Cornett. The floor is now open for discussion on AM614 to LB389. Senator Hadley, you're recognized. [LB389]

SENATOR HADLEY: Mr. President, members of the body, again, I rise in support of AM516 and LB389. I'd like to, first of all, read a list of companies. Some of them might be familiar to you: Apple, Microsoft, Cisco, Starbucks, Facebook, Subway, eHarmony, Trilogy Software. These are just examples of companies that were started using angel investing. These are companies that angel investors helped them get started. Now you can say, well, that doesn't apply here; you know, these are companies at Silicone Valley, state of Washington. But you know what? If we don't have an angel investing bill we'll never know whether we have one of these companies in Nebraska, we'll never know whether one of these types of companies will start in Nebraska. We've heard the argument that it's a bad time, in a recession. Is this a time that you're investing in businesses? Let me give you an example of 14 more companies: Hyatt Corporation, Burger King, IHOP, Jim Henson Company, LexisNexis, FedEx, Microsoft, CNN, MTV, Trader Joe's, Wikipedia, Sports Illustrated, GE, HP. All of these companies started during a recession. Now is the time to strike. Angel investing is needed. It's part of the package the state of Nebraska is putting together. If you look at the complete package, it's the Innovation Campus that the university is working on. It is the capital that the Legislature will give them to get started. It is the internship program, hopefully, that we will pass later on. It is the business bill we will bring later that deals with SBIRs. All these are part of a package to position Nebraska to go forward. We are so far behind in this area that anything we do will be positive. Lastly, I want to give you a personal example. I try not to use anecdotal evidence but I happen to know a young lady who

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has started a business. Friends and family helped her get the business going but she reached a point where they could no longer continue to finance it. A group of angel investors in Nebraska have helped her with her business. They have helped her with financing but, more important, they've helped her develop and plan for the business. They are helping meet with her to plan where the business is going. It is interesting that a lot of angel investors are people whose businesses were started through other angel investors. I think it's important that we look at this bill and the companion bills that will be coming to come up with a complete package that will help Nebraska as it moves forward and positions itself to come out of this recession stronger, more vibrant, more alive, more tax revenues raised, not through increasing taxes but by having people at work, businesses making money, the state coffers being filled up because we have successful businesses in the state of Nebraska. Thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Hadley. (Doctor of the day introduced.) Senators wishing to speak include Schilz, Council, and Sullivan. Senator Schilz, you're recognized. [LB389]

SENATOR SCHILZ: Good morning, Mr. President and members of the body. I stand here in support of the amendment, AM516, and the bill, LB389. I know that we've had some conversations about the best way to include...to make sure that our rural areas of the state have gotten a fair shake on this thing, and I hope that we've come up with something. I know, as Senator Heidemann and I were over here talking, what we've done basically is we're working on an amendment that would create an incentive to come out to rural Nebraska and not necessarily a mandate. But I think it needs to be said that rural Nebraska needs growth, rural Nebraska needs these opportunities. And so I would hope that everybody involved in this process would understand the need to be all across the state, to working with all of their partners across the state to bring these businesses and companies and investors together where they are. So with that, I know that as we've talked, Senator Cornett talked, on Select File we will have this amendment ready to go. So I would hope that everyone could push this through today,

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vote to support this on General File, move it to Select, and then we can have that conversation there about how that amendment looks and what it will actually do. So with that, I thank you this morning. [LB389]

SENATOR CARLSON: Thank you, Senator Schilz. Mr. Clerk for an announcement. [LB389]

CLERK: Mr. President, the Banking, Commerce and Insurance Committee will have an Executive Session immediately, south balcony; Banking, Commerce and Insurance right now, south balcony. Thank you. [LB389]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Council, you're recognized. [LB389]

SENATOR COUNCIL: Yes, thank you, Mr. President. Yesterday, when we were debating LB389 and AM516, I hit my light right after my friend and colleague, Senator Carlson, made the statement that Douglas, Sarpy, and Lancaster County really doesn't need the benefits of LB389, and I hit my light because I felt compelled to stand and point out the fact that not all areas of Douglas County, not all areas of Lancaster County, not all areas of Sarpy County have benefited from the economic growth that has occurred in the state, particularly over the last ten years. And I'm very much interested in having, as well, an opportunity to talk with Senator Cornett about any additional amendment. Representing the 11th Legislative District, one of the things I hear most often from my constituents is the lack of business development opportunities for residents of the district. And when you delve down into it and you press down into it, the number one barrier to small business development, from residents of my district, is the total lack of access to credit and capital. That has been a number one priority of the leadership that has gotten together over the last five years in north Omaha seeking to provide ways for the residents to access credit and capital. They can't obtain it for new start-up. They can't obtain it for expansion. They can't obtain it for research and

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development. And when I look at LB389, with the types of businesses that are being developed in my district or attempted to be developed in my district, the size of the investments that would qualify under LB389 provide an opportunity for some of the members of the African-American community, in particular, who may have access to \$25,000 to provide them with a means to provide for investment in businesses locating or to be located in north Omaha. I'm reminded of a young man who spoke last week before the Agriculture Committee about his agricultural processing company. He has a outstanding and an innovative approach to providing for organic food production in inner city areas, and I asked him how he was coming along with the development of his business, and it should have come as no surprise to me. He said, I can't access credit and capital. He has a tremendous idea. It's working in other communities and he's even built upon that. So through LB389 as amended, with an additional amendment if we can to provide some additional incentive for angel investors to invest in businesses that are trying to start up in areas of our state which have...that have, unfortunately, historically suffered from high concentrations of poverty. So I trust that in developing the amendment to address the concerns of my colleagues from the rural part of the state, that we'll also look at addressing a stated and manifest concern of residents of the district that I represent and that is to provide some alternative means for entrepreneurs to start up their businesses... [LB389]

SENATOR CARLSON: One minute. [LB389]

SENATOR COUNCIL: ...to access capital through angel investors. And it also provides for some of the opportunity for some of those angel investors to look like the people who are starting up the business, and I would urge you to advance AM516 and LB389. And I offered to sit down with Senators Schilz, Carlson, and Cornett to work on an appropriate amendment that takes into consideration the needs of rural Nebraska as well as those areas of Nebraska suffering from high concentrations of poverty. Thank you. [LB389]

SENATOR CARLSON: Thank you, Senator Council. Senator Sullivan, you're

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recognized. [LB389]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. And I really appreciate Senators Cornett, Carlson, and Schilz willing to work on an amendment that would reach out this program to rural Nebraska and distressed areas, as Senator Council had said, but I'm also just trying to get a little bit of understanding of how the process would work through this legislation. So I wonder if Senator Cornett would yield for a question or two. If she's...perhaps we'll... [LB389]

SENATOR CARLSON: Senator Cornett, would you yield? [LB389]

SENATOR CORNETT: I would be happy to. [LB389]

SENATOR SULLIVAN: Thank you, Senator Cornett. As I said, I'm just trying to get a little bit of understanding how this whole process would work under this legislation. What role does DED play in initiating this and then also linking the entrepreneur with the investors? [LB389]

SENATOR CORNETT: Their responsibility is determining whether it's a qualified project or not. The investor is the one that determines whether it is a viable project or not. Some of the types of projects that would benefit the rural area are renewable energy such as ethanol cellulose or cellulose ethanol, different ag products, like I said, renewable energy. Pretty much any type of small innovative project will work. We're leaving whether the investment or not is made up to the investor. [LB389]

SENATOR SULLIVAN: So will DED serve sort of as the repository for the entrepreneur with the idea and then also the investors that are indicating that they're willing to invest? [LB389]

SENATOR CORNETT: They will handle all of the paperwork and the qualifications and

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make sure that it is handled in the correct manner and that it...all the projects qualify.  
[LB389]

SENATOR SULLIVAN: But it really is then up to the entrepreneur to identify the potential investors for his or her business? [LB389]

SENATOR CORNETT: Yes. Well, the DED, I do not know on that aspect of it. I will look.  
[LB389]

SENATOR SULLIVAN: Do you have any idea what role beyond providing the investment...do the angel investors provide anything beyond that as in technical assistance, advice? What relationship will they have with the entrepreneur beyond the money? [LB389]

SENATOR CORNETT: It is my understanding they just provide the money for that project. [LB389]

SENATOR SULLIVAN: Okay. Thank you, Senator Cornett. I wonder if Senator Hadley would yield for a couple questions. [LB389]

SENATOR CARLSON: Senator Hadley, would you yield? [LB389]

SENATOR HADLEY: I certainly would. [LB389]

SENATOR SULLIVAN: Thank you, Senator. I know that you referenced a young entrepreneur that you knew of that took advantage of the help from angel investors and I know that we can't talk about specific names, but I'd be interested in the type of business that you were referring to as well as any others. I'm just trying to figure out particularly the kinds of businesses that would work for rural Nebraska. [LB389]



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SENATOR HADLEY: Senator Sullivan, I think a couple things. The type of business that I was talking about actually had to do with baby clothing, crib accessories, books, that type of thing, but actually in total, nationwide, about 27 percent of the angel investments are in software companies. And it's interesting in Nebraska, with what we're doing with broadband and such as that, this is an ideal type of thing for rural Nebraska that you can work in Alliance or O'Neill or wherever. Because of our access to high-speed Internet, a lot of these companies can locate in rural Nebraska because they don't have to physically be located in the metropolitan areas. [LB389]

SENATOR SULLIVAN: In your experience in higher ed and working with students, do you see...have you seen... [LB389]

SENATOR CARLSON: One minute. [LB389]

SENATOR SULLIVAN: ...examples of would-be entrepreneurs, students with ideas that...particularly again from rural Nebraska, who might be able to take advantage of this? [LB389]

SENATOR HADLEY: Absolutely. I'll give you one quick example that was just given to me. One of our students from the University of Nebraska-Lincoln went on an internship to California and had an idea dealing with software and he came back with four angel investors from California for his bill...for his idea. If we had this kind of product here in Nebraska, the angel investing, he could have done that right here in Nebraska. [LB389]

SENATOR SULLIVAN: Thank you, Senator Hadley, and thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Sullivan, Senator Hadley, and Senator Cornett. Senator Dubas, you're recognized. [LB389]

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SENATOR DUBAS: Thank you very much, Mr. President. Would Senator Cornett yield to some questions, please? [LB389]

SENATOR CARLSON: Senator Cornett, would you yield? [LB389]

SENATOR CORNETT: Yes. [LB389]

SENATOR DUBAS: Thank you, Senator Cornett. Just to pick up a little bit on where Senator Sullivan was going with her questions, how much...I think it's been brought up that these are rather...this is a rather risky approach to business. How much risk is there involved in these types of ventures? [LB389]

SENATOR CORNETT: There is a much higher risk than in a lot of others, but the benefits, when they succeed, are that much higher also. The states that have done this have seen nothing but economic growth. [LB389]

SENATOR DUBAS: Are there going to be...what types of procedures are going to be in place that maybe can vet these ideas and these projects in a more...give it a lot more scrutiny maybe to minimize some of the risk? Do you know what types of procedures will be in place for these applications? [LB389]

SENATOR CORNETT: The application, as long as it meets the criteria of being a qualified investment and a qualified company, that is as far as the state's role for this bill goes. It's up to the investor, whose money is at risk with this, to determine if it's a qualified project...I mean or a viable project. [LB389]

SENATOR DUBAS: How much of this information...I know there will be...there's a reporting component in here which I think is a great idea, but will the entire project and application, will that be a part of the public information? How much of this will be available to the public for their scrutiny? [LB389]

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SENATOR CORNETT: Well, it will have confidentiality like the Advantage and Super Advantage. What will be available is the success rate overall of the projects in how much money they bring into the state. [LB389]

SENATOR DUBAS: Okay. I know that there's a rollover of credits that aren't used from the Nebraska Advantage, Rural Development Act, and the Microenterprise and... [LB389]

SENATOR CORNETT: The Microenterprise was taken out in the committee amendment, AM516. [LB389]

SENATOR DUBAS: Thanks for that clarification. So...but it still leaves the Rural Development Act in there, correct? [LB389]

SENATOR CORNETT: Correct. We are using money that was...has not been utilized in the past and that was the concern of the other rural senators, particularly Senator Carlson, and that is why we are working on the amendment for Select File that gives a little bit extra back to incentivize development in the rural areas. [LB389]

SENATOR DUBAS: And I do know that this was a program that was underutilized. Do we know why it wasn't used? [LB389]

SENATOR CORNETT: That I do not know. [LB389]

SENATOR DUBAS: Okay. So I am anticipating that you feel this type of a program would receive much more utilization than the Rural Development Act. [LB389]

SENATOR CORNETT: The states that have implemented this have seen them utilized, yes. [LB389]

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SENATOR DUBAS: Okay. Someone brought up on the floor yesterday a refundable versus a nonrefundable credit. Can you give me the rationale behind going with the refundable? I think I know the obvious answer but just want to hear from... [LB389]

SENATOR CORNETT: (Laugh) Competitiveness. We, if we are going to do this, we have to do it at a level that is successful and this would make us competitive with the other states. [LB389]

SENATOR DUBAS: And I briefly asked you this question yesterday and I guess I would like to go into it a little more in depth. It talks about, in all three sections, whether it's the investor, the business, or...there's three components and I'm missing one, excuse me. But anyway, I'll just read to you the question that I have. If the director neither certifies the fund nor denies the application within 30 days after receiving the original application or within 30 days after receiving the additional information requested, whichever is latter, then the application is deemed approved. And I asked you if that was... [LB389]

SENATOR CARLSON: One minute. [LB389]

SENATOR DUBAS: ...was typical language and you said yes. But this kind of raises a little bit of a red flag for me that, you know, simply by not taking action on something it can automatically move forward as approved, or am I misunderstanding this language? [LB389]

SENATOR CORNETT: I think that is language there to force the DED to evaluate the application. [LB389]

SENATOR DUBAS Okay. So your thought is, with this in there, that's going to make them move forward with, but what would happen if just for some reason they didn't get to it, it got overlooked, and then automatically it gets approved and then we may have a

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project that isn't what it should be? [LB389]

SENATOR CORNETT: I can check into that. [LB389]

SENATOR DUBAS: All right. Thank you very much, Senator Cornett. And none of my questions are because I think this is...I want to support small business development, especially in rural Nebraska, and I know we have to be creative and look outside of the box. But this is something new. It's definitely been acknowledged as something that has a risk. So I think it's very important that we as a body really examine and dig deep into what this actually will do good and, potentially, bad for the state of Nebraska. I know we're watching our pennies very, very closely. [LB389]

SENATOR CARLSON: Time. [LB389]

SENATOR DUBAS: Thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Dubas and Senator Cornett. Those senators wishing to speak include Council, Pirsch, Schumacher. Senator Council, you're recognized. [LB389]

SENATOR COUNCIL: Thank you, Mr. President. Would Senator Cornett yield to a few questions? [LB389]

SENATOR CARLSON: Senator Cornett, would you yield? [LB389]

SENATOR CORNETT: Yes, I would. [LB389]

SENATOR COUNCIL: Yes, thank you, Senator Cornett. And Senator Dubas touched upon one of the concerns initially regarding LB389 and that's the source of the funding because the Rural Advantage Act not only addresses rural development issues but also

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is the source of some funding for job training in areas of high concentrations of poverty. So that's why I'm concerned about LB389 being drafted in such a way that those areas could directly benefit from the angel investment tax credits. Can you tell me what you, if you're at that point, what you and Senators Carlson and Schilz are looking at as a way of providing an additional incentive for angel investors to invest in start-up businesses in rural and then areas of high concentration of poverty. [LB389]

SENATOR CORNETT: We do not have the numbers worked out yet but we are looking at leaving the \$3 million capped; changing the percentage so anyone anywhere in the state, if they invested in a distressed area, would receive a higher percentage back than if they invested in a company or start-up in a nondistressed area. And we're using the term "distressed," which means a municipality, county, or county population of fewer than 100,000 inhabitants, according to the most recent federal census; unincorporated areas within a county or census tract in Nebraska that has an unemployment rate which exceeds the statewide average unemployment rate, has a per capita income below the statewide average per capita income, or has a population decrease between the two most recent federal decennial censuses. So that would include the rural areas and then it would also include the areas of higher poverty and particularly your district. [LB389]

SENATOR COUNCIL: Okay. So it would under, if I heard you correctly, I think it's the second, which is if it's in an area that has a population of greater than 100,000 or unincorporated areas. Are you looking at census tract or...? [LB389]

SENATOR CORNETT: Yes, or has the unemployment rate higher than the statewide average or a lower income average. [LB389]

SENATOR COUNCIL: Okay. Well, we may need to push that down a little because I don't think the city of Omaha, for example, would meet the unemployment rate, but there are census tracts within the city of Omaha that most assuredly meet those criteria. [LB389]

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SENATOR CORNETT: The city of Omaha as a whole would not meet it, but the census tracts under the amendment will. [LB389]

SENATOR COUNCIL: Okay. Thank you. Thank you very much. And I appreciate the recognition of the need to provide these angel investment opportunities to distressed areas or in particular areas of the state that have historically suffered from high concentrations of poverty as well as unemployment rates that annually exceed the statewide average by double digits. So this amendment, I will provide any assistance in further developing that and would support this LB389 with the current committee amendment as well as with the amendment that is being drafted to address distressed areas of the state. Thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Council and Senator Cornett. Senator Pirsch, you're recognized. [LB389]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I rise to weigh in on the matter. I, as a member of the Revenue Committee, did support this bill and bringing it to the floor here, and I wanted to comment a little bit today on why. To me, this is a missing piece of a very important puzzle. There is a niche of investor and investing that is missing in our state. It leaves an important void that is hurting would-be businesses from coming into existence in the state and creating new jobs. I think everyone agrees with this assessment of this void. A study that we spent considerable energies and resources into, the Milliman study, concluded that this was a major problem. There are a lot of potential technology start-ups, very high-paying jobs, but angel investment dollars are not plentiful presently for these types of potential start-ups in the state because of our low volume of deal flows relative to other states and, more likely, perhaps some stereotypes of our environment here in Nebraska. Because of this, many potential angel investors don't really care to even investigate the opportunities that we can present in the state, and so I think this bill in particular, but the investment

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credit in particular, was designed to capture the attention of those parties and they are...and it will. This will ensure that they will be looking at Nebraska, many for the first time. That's why it's something that deserves the debate on this floor. And why I support this bill on a high level, this is a priority of the administration and they have spent time and resources, the Department of Economic Development, studying the Milliman report, what relative disadvantages the state holds for business creation, and have looked at what they feel is the correct response to formulate. And so after having done that, they believe that these...this bill...and quite frankly, it's part of a package that the...I think it was Senator Hadley yesterday who spoke about those four priority bills: this angel investment, the business innovation bill, the internship bill, and Innovation Campus bill. You know, I've often lamented the fact that oftentimes we don't have a comprehensive and unified economic development approach. Our economic development programs happen piecemeal from decade to decade, different Legislature to different Legislature with different committees holding jurisdiction over them. And so I do favor an approach that is comprehensive and unified. And I think it appropriately is filled, that...having that unified approach, is probably best left to the Department of Economic Development. They have the resources day in and day out to do that. And so I do think it's appropriate for this bill. On the merits of the bill itself, these are not new tax dollars that are flowing to this program and that attracts me greatly to this program. These are dollars... [LB389]

SENATOR CARLSON: One minute. [LB389]

SENATOR PIRSCH: ...that have already been allocated to economic development but in a way that have not been bringing us as high of a return as we expected or have not even been used. And so I think that's important. Also important, there is a sunset provision on that so we can...it will end. We'll have a chance to assess it and make modifications to the program if needed. Technology, upon which this bill focused, very high-paying jobs, with respect to other states' experiences, more than 20 states have written similar legislation to encourage angel investment, consistently successful. Wisconsin Angels Network's 2010 annual report: Angel deals triple in the five years



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since it enacted legislation. So we have great opportunity here. We have the risk taken out. It's not new tax dollars. It's using current tax dollars more wisely. [LB389]

SENATOR CARLSON: Time. [LB389]

SENATOR PIRSCH: Thank you. [LB389]

SENATOR CARLSON: Thank you, Senator Pirsch. Those still wishing to speak include Schumacher, Avery, and Conrad. Senator Schumacher, you're recognized. [LB389]

SENATOR SCHUMACHER: Thank you, Mr. President. Would Senator Hadley yield to a question, if he's in the Chamber? [LB389]

SENATOR CARLSON: Senator Hadley. I don't see Senator Hadley. [LB389]

SENATOR SCHUMACHER: Guess he can't yield to a question then. I rise to express concerns about the way we are approaching these problems. In order for there to be real economic development, there has to be some fundamental things. You have to have labor. You have to have organized capital, which comes in the form of debt or equity. And you've got to have technology or know-how that knows how to put it all together. It strikes me that the list of corporations that Senator Hadley referenced, while they may have had angel investments involved, they were not tax subsidized angel investments in most of those cases. And as I read the bill, the four guys from California who invested in the young man's business here in Nebraska, if this bill had been in effect, would be getting a check from the state of Nebraska. This seems to me, while it might be a good idea and it's small fry because there's not much money involved in the context of what we need to do in order to mobilize our capital in the state, this seems to be one of those things where Nebraska is a day late and a dollar short. If we're going to spend \$3 million of tax money every year, then is there not a way that we can look at the tremendous cash wealth of this state that is presently going to paying \$8,000 an

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acre for farmland that sold for \$5,000 an acre a couple years ago that is presently tied up in 0 percent or near 0 percent savings account or is being wagered on Wall Street? Is there not a way that we could better use this kind of money to function to develop a mechanism so that our people can invest that money here in Nebraska in not only high-tech kind of things like this but also in not so high-tech things that carry the burden of the economy on the state, for the state, that develop our local communities? I think that the discussion has got to progress beyond how do we tax the average taxpayer who will never get a nickel's worth of good out of...direct good at least, out of these programs and then subsidize somebody in order to do something that, in sound business practice, they might have done otherwise and probably would have done otherwise if they saw a way to make money off of it. We need development of that mechanism because if we can put our excess low-return capital, that people are dying to invest in Nebraska, into a mechanism for investment in all kinds of businesses, we can raise billions, not just millions, and we can do a real economic development program. So while this thing might be a good idea on a small scale, we need to do much more and this angel investment program, for a nice-sounding name, does not do a lot of much more and probably will have a handful of people in probably a discriminatory way that a lot of people who are working on hard businesses and working hard on their businesses and developing them will never see a nickel's worth of good out of. So I have mixed feelings on this particular bill. I do not think it's the best way we could spend \$3 million a year. Thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Schumacher. The Natural Resources Committee will meet in Executive Session under the south balcony at 10:30 this morning. Senator Avery, you're recognized. [LB389]

SENATOR AVERY: Thank you, Mr. President. I listened carefully to what Senator Schumacher said and he might be right, but he might not be. I'm willing to take a chance on LB389 and I'll tell you why, because, in my mind, this is about the future and the future in this state, as it is in other states, is in a knowledge-based economy,

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knowledge-based economic activity wherein knowledge drives economic development. This is the kind of development that brings together computer sciences, engineers, mathematicians, chemists, physicists, and many other scientists who pool their knowledge in order to generate new products. The emphasis in a knowledge-based economic activity is on bundling all of these areas of knowledge together to get the most out of them. This is what I see Innovation Campus being devoted to. In fact, Innovation Campus, I believe, will be all about the generation of new knowledge bringing together the forces in our economy that can produce new knowledge, generate new products, new jobs, new income, new investment, and these will, of course, benefit all of us in the state. I believe this bill will help us move toward a more invigorated, knowledge-based economy. Senator Pirsch mentioned that this bill addresses a missing piece in our economy. I think he nailed it. He's absolutely right. If we're going to move into an economy that is based on knowledge and if we're going to move into the future, we need this kind of investment. I'm not sure if this will do everything we want. It probably will not, but I'm willing to take a chance on it. You will remember last year the state of Nebraska commissioned a study by the Battelle group and in that study the Battelle consultants concluded that Nebraska needs to work on developing more value-added jobs. This bill will help us meet that objective. I will vote for this amendment and the underlying bill because I think it's worth at least the effort to give this the chance to do what it intends to do. Thank you very much, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Avery. Senator Conrad, you're recognized. [LB389]

SENATOR CONRAD: Thank you. Good morning, Mr. President, and good morning, colleagues. I wanted to just provide a little bit more information for the record, and I do rise in support of the committee amendment and the underlying legislation, and I am glad to hear that Senator Cornett and Senator Carlson and others have had a meeting of the minds, so to speak, and will work on this legislation before it hits the next round of debate to address unique concerns for rural Nebraska and other distressed

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communities in how to leverage investment and private dollars into those areas. I think that will indeed strengthen the bill as it moves through the process and is a testament to the importance and benefit of a vibrant debate, because that common ground can be identified and addressed in an appropriate way. So again, I add my congratulations to them and look forward to seeing that language. I did want to talk just a little bit about some of the issues and ideas, concerns and anxieties that have been raised in addition to risk, so to speak--I'll characterize it as risk--and aren't these risky investments and how do we really mitigate that risk from a state public policy perspective. And I want to talk just about a couple of things that I think mitigate that risk. Number one, look at the Nebraska statistics, and I'm again going to read from the Nebraska's Innovation and Entrepreneurial Ecosystem Task Force report that we can make available to people, but on page 32 there is a good breakdown of Nebraska entrepreneurship and small business statistics, a lay of the land, so to speak, in Nebraska right now for small businesses. It's probably no surprise to many of you but I think it is important for the record. Eighty-six percent of Nebraska businesses have less than 20 employees, so this is a huge and significant part of our economy. I think there's no debating that. Small businesses and entrepreneurs and innovators are indeed the backbone of our economy in Nebraska and across this great country, for that matter. So remember, this is who we're talking about and that will have the opportunity to benefit by this leveraged private investment. The other thing that I think we need to keep in mind when thinking about risk is there's risk in every business enterprise, organization, and activity. But the folks who are the entrepreneurs and the small businesses that have poured their heart and soul into this business venture work every day to mitigate that risk, work every day to make their company stronger and better and to meet the challenges of an ever-changing global economy. And in fact, the report also found that in Nebraska we have a much, much lower failure rate for small businesses than we see in the rest of the country. So I think that's a testament to the conservative nature of Nebraska businesspeople. They don't enter into incredibly risky ventures without good judgment and common sense, and the statistics bear that out. The other thing that I think helps to mitigate risk is an understanding of how angel investing really works. Make no mistake,

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these are very sophisticated investors who pool information, knowledge, and expertise to carefully evaluate whether or not a business is worthy of this angel investment, this private investment. Just looking at the Nebraska Angels Web site, which is just one example, just one example of angel groups that exist in Nebraska...and they do exist in rural areas, colleagues. I know that there is activity in this area in Columbus and elsewhere. So that's important to keep in mind. But when the angel investors are making their decision, they evaluate your management team, your target customer, your market size, your competition, your technology, whether or not there's any protected intellectual property at play. They evaluate your sales strategy. They evaluate your profit potential. They evaluate capital needs. They evaluate financial protection, exit strategy, business plans. There is an incredible level of detail... [LB389]

SENATOR CARLSON: One minute. [LB389]

SENATOR CONRAD: ...and sophisticated analysis going into whether or not somebody makes an angel investment. And there's an extensive funding process to trigger this investment as well. It's been said before, but I think it bears...it's worth repeating, that in the task force work we looked at what worked in other states that best harnessed new jobs in the new economy, and what worked best was a seamless partnership between state government, private sector, and institutions of higher education. Angel investing represents one of those key pieces in that critical triumphant--the private investment that must be leveraged on a statewide level to achieve statewide success. Thank you, Mr. President. [LB389]

SENATOR CARLSON: Thank you, Senator Conrad. There are no other lights on. As Chair of the Revenue Committee, Senator Cornett, you're recognized to close on AM516. [LB389]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Again, I wanted to remind the body AM516 is the committee amendment that reduces the fund

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from \$5 million to \$3 million, sunsets it, and sets the percentages at 40 percent and dropping down to 35. I do want to assure everyone that there will be an amendment on Select File that addresses some of the concerns that were brought up by the rural senators and particularly Senator Carlson. I'm very happy to work with him on that. I urge the body to support the Revenue Committee amendment. Thank you. [LB389]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the closing on AM516. The question is, shall AM516 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB389]

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB389]

SENATOR CARLSON: Thank you, Mr. Clerk. The amendment is adopted. (Visitors introduced.) Mr. Clerk, items for the record? [LB389]

CLERK: I do, Mr. President. Thank you. Your Committee on Judiciary, chaired by Senator Ashford, reports LB100, LB415, LB479, and LB618 to General File with committee amendments attached. Priority bill designation: Senator Sullivan, LB629 as her priority for this session. And I have received three different confirmation reports from the General Affairs Committee, those offered by Senator Karpisek. And finally, Senator Adams, new resolution, LR105; that will be laid over. (Legislative Journal pages 772-774.) [LB100 LB415 LB479 LB618 LB629 LR105]

Mr. President, with respect to LB389, the next amendment I have is, Senator Cornett, AM614. (Legislative Journal page 706.) [LB389]

SENATOR CARLSON: Senator Cornett, you're recognized to open on your amendment. [LB389]

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SENATOR CORNETT: Thank you, Mr. President, members of the body. AM614 is technical in nature and clarifies that investor or fund will be eligible for tax credits in the tax year which begins on or after January 1, 2011. The amendment also clarifies the operative dates of several sections of the bill and adds an emergency clause to the bill. The emergency clause is needed to effectuate the previous adopted amendment, changing the application deadline for Nebraska Rural Advantage applications in 2011. Again, AM614 is technical in nature and is basically an enacting amendment. I urge the body to support this and thank you. [LB389]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've the opening on AM614. Are there senators wishing to speak? Seeing none, Senator Cornett waives closing. The question is, shall AM614 be adopted? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB389]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of Senator Cornett's amendment. [LB389]

SENATOR CARLSON: The amendment is adopted. [LB389]

CLERK: Mr. President, the next motion is by Senator Langemeier. Senator Langemeier would move to indefinitely postpone LB389. Senator Cornett, you have the option to take the motion up or lay it over at this time. [LB389]

SENATOR CORNETT: We'll take the motion up. [LB389]

SENATOR CARLSON: Senator Langemeier, you're recognized to open on your amendment. [LB389]

SENATOR LANGEMEIER: Mr. President, members of the body, when I filed this a couple days ago, we've had some good discussion about LB389 and my stance has not

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changed. I just...I'm not against angel investing. I just don't think this is the opportunity to do it. But in light of some of the discussion, I see the committee has looked to make some more changes to this bill and they've promised us changes by Select File, and so at this time I would withdraw my motion to IPP and look forward to those changes.

Thanks. [LB389]

SENATOR CARLSON: So ordered. [LB389]

CLERK: I have nothing further on the bill, Mr. President. [LB389]

SENATOR CARLSON: The bill is open for debate, LB389. Seeing no one wishing to speak, Senator Cornett, you're recognized to close. [LB389]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I want to thank you for your time and patience on this bill for the last couple of days and I want to thank the rural senators that have given me input on what they need to make this successful for them and their communities. With that, I urge the body to advance LB389. [LB389]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the closing on LB389. The question is, shall LB389 be advanced to E&R Initial? All those in favor vote aye; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB389]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB389. [LB389]

SENATOR CARLSON: LB389 is advanced. Mr. Clerk, next item. [LB389]

CLERK: LB546, a bill by Senator Gloor. (Read title.) The bill was introduced on January 19 of this year. At that time referred to the Urban Affairs Committee. The bill was



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advanced to General File. There are Urban Affairs Committee amendments. (AM348, Legislative Journal page 594. [LB546]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Gloor, you're recognized to open on LB546. [LB546]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. Let me give a quick review of what LB546 will do and the committee amendment that Senator McGill is going to introduce in a moment. This is the world of building codes. I've been living in it. Interesting, not particularly entertaining, but interesting world. It will adopt the 2009 commercial and residential building codes, but...and, hopefully, this sounds familiar to a number of you, without a mandate that came out in those 2009 codes that all new residential homes built in this state have to have a sprinkler system. That sprinkler system is the same sort of sprinkler system that exists in motels, nursing homes, hospitals. It will allow, and this is an important point, it will allow municipalities, counties, wherever you've got a building department, it will allow those individual local control entities to make the decision to opt in. So that if at a local level that argument can be made that putting residential sprinklers in family homes, new ones being constructed, is an appropriate thing to do, it can happen, local control. It also removes an unlawful delegation under current statute. We have been referring the adoption of these codes to an outside agency. That's something, that again, will be talked about further by Senator McGill. By way of description, the International Code Council has been responsible for this, do a lot of great things. It's a multi-industry council, not governmental, that constantly does testing, research of building techniques, new building materials, electrical, plumbing, for inclusion in their recommended specifications for new construction. What results are residential codes and commercial codes and they get revised every three years. In the past we have automatically adopted these new versions and the latest one has been in '09. Last year I introduced LB949, which was to adopt the '09 codes, but would have taken out this sprinkler mandate. In fact, would not have allowed any municipality to make the decision to put it in. I was looking for a

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complete moratorium on installation of these sprinklers in buildings. And I was doing it for a variety of reasons. You have some handouts in front of you. There's a map that shows you the number of other states that have opted out of this mandate in one form or the other. But there's also a note in front of you or a handout in front of you that shows the kind of expense that we're talking about. This is a significant expense on the cost of building new homes. At a minimum, I think, we're talking about \$3,500 to \$4,000. But in some of your localities, because of impact fees and a number of other things related to code, that amount can be considerably better. And we're doing this at a time when the building industry and the construction of new homes has ground and ground and ground down to a crawl. We know one of the key economic indicators has to do with new housing starts, and we're struggling in our national economy because of the low number of housing starts. Why would we put this dollar amount on top of the already expensive cost of building a home? There is an issue of reliability in maintenance. This technology is not refined. And I'll tell you coming from an institution that had lots of sprinklers, with a 24-hour maintenance staff, there are challenges. Imagine putting this in 7,000 residences across our state. In 2008 we built 7,000 new homes. And by the way, take 7,000 new homes times an average conservative cost of \$4,000, you're talking about \$28 million of additional expense into the building industry and to people who are trying to build homes. There is a reliability issue. Is there a benefit? Certainly, sprinklers can stop fires. Is it worth \$28 million? That's an issue worth discussing. But there's an even more significant issue here and that is, because of challenges and the reliability of the sprinklers going into homes, what we're going to end up with, and the reports that we get from other communities that have done this across the nation are, people shut the systems off. They end up being like home vacs, they end up being like trash compactors that you may have in some of your own homes, that when they don't work, rather than incur the expensive cost of somebody do the maintenance on it come out, they just shut them off because the mandate does not require you to maintain them. The mandate says you only have to put them in. What will end up happening is, we will have thousands and thousands of sprinkler systems shut down in this state because the first ten below day when pipes start cracking and

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freezing and leakage happens, and you turn in claims to the insurance company, you shut it off, and you never get around to putting it back up again. There are also from a reliability standpoint concerns about even the safety of the sprinklers themselves. Some individuals, following what were recommendations, started putting antifreeze in their lines to keep them from freezing. And then we found out with the grease fire in a kitchen, a safety alert had to be issued because instead of extinguish the blaze, it in fact caused a flareup that killed one person and seriously injured somebody else. So now there are recommendations for specific titrations of antifreeze. Who is going to do those specific titrations of antifreeze to put in these sprinkler lines? Again the reliability is not there for this kind of expense. There will be an impact on low income housing. During the testimony that was given last year as well as this year, we had representatives of low income housing who said, we're just putting the cost of homes and we're out of reach for low income Nebraskans. My own Habitat for Humanity director said that they would have to raise a quarter million more aluminum cans just to pay for sprinkler systems in Habitat homes, fewer Habitat homes being built. We have a lack of enforcement. We have no state agency responsible for doing the enforcement on this. Most of our communities in this state don't have a way to do the enforcement. They're not big enough to have building departments that are responsible for codes. I don't want this to become a rural-urban issue. And by the way, both Omaha and Lincoln building departments have said, once we adopt the '09 codes, it's their expectation and plan that they will not put sprinklers in the codes given that opportunity. We ended up with an interim study as a result of this last year and a couple of things came out of the interim study. Significant from my standpoint was a compromise. My bill last year, LB949, would not have allowed a local entity to, in fact, mandate putting sprinklers in. I realize we love our local control in the state of Nebraska, and in talking with building departments, we now will allow for an opt in. Each community can decide whether to opt in sprinklers. There also was an AG's Opinion that had to do with the decision making of process are unlawful delegation. And with that, I will wrap up my comments, and let Senator McGill talk about the amendment that came out of the committee that addresses that and a few other issues. Thank you, Mr. President. [LB546]

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SENATOR CARLSON: Thank you, Senator Gloor. As the Clerk stated, there are amendments from the Urban Affairs Committee and Senator McGill as Chair of the committee you're recognized to open on AM348. [LB546]

SENATOR MCGILL: Mr. President and members of the body, this legislation has been a very long and winding road and we haven't seen the end of it yet. We're going to have an interesting and lively debate here today. The committee amendments are probably the least controversial part of this bill. The committee amendments was a bill I originally introduced to clean up some of our language dealing with building codes. It does move the international building code to 2009, so to update that actual building code. And then it deals with an issue we've seen in the Supreme Court and from an Attorney General's Opinion saying that the Legislature's practice of just automatically adopting a new building code is actually an unauthorized delegation of our duty here. And so it strikes language saying that a new edition can automatically be adopted to the building code, which then requires us to vote every time there's a new building code. So that, in and of itself, is something that we have to do and should be noncontroversial. We also decided it was necessary to make it more clear that a local municipality could either opt in or opt out of any part of the building code. As we learned through this process, some cities thought they could opt in and out, some thought they couldn't, some thought they could just opt in, some were just opting out of things, so needed to make it more clear that a city or municipality can do either of those. There is...I'll probably go ahead and stop there and move on to the amendment to the committee amendment, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator McGill. Mr. Clerk, is there an amendment to the committee amendment? [LB546]

CLERK: There is, Mr. President. Senator McGill would move to amend the committee amendments with AM599. (Legislative Journal page 775.) [LB546]

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SENATOR CARLSON: Senator McGill, you're recognized to open on AM599. [LB546]

SENATOR MCGILL: Thank you, Mr. President. In the amendment we took out some language, or in the original amendment we were taking out language referencing a new edition so that again we've had to vote on that new edition. But we inadvertently struck a line that would allow cities to actually leap forward. And even if we're sitting on the 2009 code, it allows a city like Omaha to start planning for the 2012 code, which is indeed what they're already doing. And I'm going to go ahead at this point and talk a little bit about the process in the Urban Affairs Committee. Senator Gloor touched on it. We dealt with this bill last year. We did an interim study and we learned that when it comes to our building codes, there's a lot of confusion out there between municipalities, a lot of confusion within the committee in trying to figure out what the standard was out there. And even in some cases, the purpose of a building code if everyone could either opt in or opt out and change everything in the code. And what we learned dealing with sprinklers in particular, is that there's no municipality in the state that actually plans on putting sprinklers in their building code. Omaha and Lincoln are already planning for the '09 code, or in the case of Omaha, the 2012 code, and they already plan to take sprinklers out. So, honestly, the debate we could be having today could be about whether sprinklers are good or bad. But the reality is, no one is going to be putting sprinklers in new homes right now. The question that we will be debating today is whether we should be changing the building code to strike something like sprinklers, so requiring a city to opt into sprinklers if they did indeed decide to go that route, which they're not, but in case they did. Or if we should leave the code as it is, and have all those cities opt out of using sprinklers. I know we will be hearing from Senator Krist here in a few moments, and while the committee did decide to take sprinklers out of the building code so that cities would have to opt in, he also makes a very strong argument for why we should just advance the code without any changes and allow the cities to make those decisions. It's been a pretty frustrating process for me because, honestly, I'm neither here nor there on this. And I'm just trying to get the bill on the floor so we

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could talk about it and make some decisions about how we want to move forward with building codes moving into the future. And I can guarantee you we will be doing another interim study on building codes in general, and decisions we should be making on that in particular. But with that, Mr. President, I'll let the discussion start. [LB546]

SENATOR CARLSON: Thank you, Senator McGill. The floor is now open for debate on LB546, the Committee AM348, and the amendment to the amendment, AM599. Senators wishing to speak, include Fulton, Krist, and Gloor. Senator Fulton, you're recognized. [LB546]

SENATOR FULTON: Thank you, Mr. President, members of the body. I remember this bill from last year and it's a policy at least, an issue at least that I have some familiarity with. When I was still practicing engineering, we had to deal with building codes. And this may become a familiar refrain, oftentimes codes are conceived in lands far, far away, and get adopted at local levels without necessarily knowing the thought process far, far away. We had a little bit of discussion on this when we talked about honey. This, while certainly not honey, is not dissimilar in that there is a code that's adopted oftentimes internationally, which has no idea what's going on in Nebraska, let alone rural Nebraska. So there is a...as the committee amendments, I understand we're on AM599, but there's a point I want to...a part of the amendment that I want to point out to you. In the green copy of the bill, I believe it's six lines, 16 through 18 on page 2, that will be struck with the committee amendment. Actually, why don't I just make certain. Would Senator McGill yield to a question? [LB546]

SENATOR CARLSON: Senator McGill, will you yield? [LB546]

SENATOR MCGILL: Yes, I will. [LB546]

SENATOR FULTON: Senator, am I correct, part of what the committee amendment accomplishes is to strike lines 16 through 18 on page 2 of LB546? [LB546]

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SENATOR MCGILL: That's correct, Senator Fulton. [LB546]

SENATOR FULTON: Okay. Thank you. Thinking out loud sometimes gets us in trouble. That's happened a couple of times to me so I want to verify all of this. Why is that important? Whenever a new edition of the codes adopted in subsection (1) of this section is published, such new edition shall be considered the state building code. It's important, I think, that we strike those lines because if we didn't we would be saying that any decisions made far, far away would automatically be adopted by the state. And I'm telling you, for future senators who are looking back on this debate, that will get us in trouble when we cede our authority to pass anything to folks at a federal level or at an international level, it will get us into trouble. And so what Senator Gloor has done, he has slowed this process down and he has allowed for, I hate to use it, but an element of local control. But more importantly, we are not simply ceding our authority to set building code to folks who do not understand what's happening at a local level. What causes the mind to grasp this most readily is called the principal of...the general principal of subsidiarity. Those closest to a problem have the best ability to address the problem. So I'm going to be in support of the amendments and the underlying bill. I want that to be clear, but there's rationale behind it. I'm going to yield some time to Senator Gloor, if Senator Gloor would use the remainder of my time. [LB546]

SENATOR CARLSON: Thank you, Senator Fulton and Senator McGill. Senator Gloor, 1 minute 40 seconds. Senator Gloor you have been yielded time. There's 1 minute and 35 seconds. [LB546]

SENATOR GLOOR: Let's talk about opt in and opt out a little bit because it will be the crux of this discussion. I have yet to talk to a senator that doesn't understand the difficulty of, in this economic climate, adding \$28 million to the overall expense of construction of residential homes in this state. But there is a key problem with opt in and opt out and it goes back to the challenges we have when we have large urban areas of

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the state, but the majority of the state being very rural. That problem is, that challenge is, that we don't have building departments. [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR GLOOR: We don't have opportunities to opt out. What entity is in existence in a small rural Sandhills city or county to opt out of these codes? Do they care about codes? Do they deal with these codes? The answer we found out is how most of the construction industry, which sometimes are two brothers who have been building homes in the Sandhills for years and years, how they find out about changes in codes is they go to suppliers. And the supplier says, that undersheeting is no longer available. There's a new type of undersheeting that is in the code and that's what they buy. When it comes to sprinklers, when it comes to installation of something as sophisticated as sprinklers, you're not going to find your local plumber who puts in sinks and bathtubs being the one that puts in these sprinkler systems. There's a liability component to this that's going to have this being done by a smaller subset of the industry. And how do you get them at a reasonable cost, which isn't figured into the numbers in front of you on that sheet by the way, at a reasonable cost? How do you get them driving out... [LB546]

SENATOR CARLSON: Time. [LB546]

SENATOR GLOOR: Thank you. [LB546]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Krist, you're recognized. [LB546]

SENATOR KRIST: Thank you, Mr. President and colleagues. Senator Gloor is absolutely right. This is a discussion that will permeate a philosophy of either opting in or opting out of a building code. The way things happen right now, and until the Attorney General's Opinion was handed down that we could not simply acquiesce to a new code



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coming forward, it requires us to adopt a code. I will speak only on the amendment, the committee amendment. Two thousand nine there was a code that we needed to either adopt or not adopt. We, at that point, were slowed down by Senator Gloor, and we had an interim study. And we looked at what the code actually said. What the code said was that all new residential building needed a sprinkler system. Now I want to tell you right now, I am not in favor of the code the way it stands. So I do not believe that every new residential building should have a sprinkler system. Let me say that again, I am not in favor of every new residential building having to have a sprinkler system. So we have to make a choice. Do we adopt the 2009 code as it stands, and do we tell the local municipalities that they can opt out, or do we tell the state of Nebraska we like the 2009 building code, but we don't like the sprinkler systems so we're going to take that part of the code out. If I ask for a show of hands, which I won't, everyone in this room that would understand if we removed sprinkler systems from this code, what else, what else would that affect within the building code? Would you be able to build the buildings in the same distance to each other if they didn't have sprinkler systems? Have we taken that out of the code? Would you be able to use a smaller water main or would it have to still be the larger water main? And did we take that out of the code when we did this? Would you be able to afford the setbacks that are required within the building code? So I see...if you see what I mean, if we say we like the 2009 building code, but you don't have to put sprinklers in, we're making decisions and we're saying that we know better, and I don't think we do. The city of Omaha came and testified and later, I hope if I need to, I'll provide testimony in the actual hearing from the planning departments who said, we're already adopting the 2012 code. And, oh, by the way, we've written ourself out of the sprinklers. The city of Lincoln said the same thing. We've adopted the '09 code but we've written ourselves out of the sprinkler system. Now what I take particular offense to when we talk about local control is the fact that someone in Scottsbluff or Schuyler or anyplace else doesn't have the brain power or the manpower to call up the city of Omaha or Lincoln and say, how did you do this, because we want to do the same thing. And that's where it should be. It should be, we adopted a code, we put it forward. Or an argument could be made, we should never have adopted the '09 code because if you

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go back to '06... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR KRIST: ...it's not in there. I'll talk later about my floor amendment and further discussion. The bottom line is, I believe that we should either adopt or not adopt a code as it is. We should allow the local municipalities or cities to opt out, which they're already doing, and not specifically exempt any part of the code that was thought out at a different level. In other words, when the Urban Affairs Committee or the General Affairs Committee comes to you and says, here's a new building code, you would be able to say, nope, it's not good, or yes, it is, because the AG's Opinion says we have to adopt a code and go forward. I'll talk to you about a handout that you currently have that talks about the current statute and I would advise...or I would ask you to look at that and understand it before the next time I'm on the mike. [LB546]

SENATOR CARLSON: Time. Thank you, Senator Krist. Those Senators still wishing to speak include Gloor, Loudon, Wallman, and Krist. Senator Gloor, you're recognized. [LB546]

SENATOR GLOOR: Thank you, Mr. President. Look at the map. Look at the number of states who have made the decision we're talking about making right here. And yes, we do touch code. All the time we touch code. Some of you will remember a couple of years ago, Senator Giese had a bill that related with two fault protectors. Probably the only bill that we've talked about in the past couple of years that have dealt with fault protectors. Spoken to in the code. Controversial. We talked about it on the floor of the Legislature. It is appropriate for us to take ahold of something that's going to have significant impact on Nebraskans. And \$28 million additional costs at a minimum to the construction industry to the cost of residential homes, taking homes and putting them out of reach of all...of a number of Nebraskans, especially at a time when coming up with a down payment is a challenge for most Nebraskans, and adding \$4,000 up on the

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cost of a home, is worth us talking about. Senator Hadley has a bill. Still in committee, I believe, that deals with plumbing and plumbing codes, looking at that. We have had energy bill discussions. All of those relate to the code. And remember, we're talking about building products. We're talking about what goes in and is sold in the construction of homes. And the codes speaking to sprinklers, speaks to it because those are products that go into those homes. Setbacks, setbacks referenced. That's a decision of local communities. It's not spoken to in the code we're talking about here. We will not get involved and haven't been involved in discussions on setbacks. The discussion is expanding to where it shouldn't be and that is, these building codes speak to products primarily. They don't tell you how far you have to have as a setback. That's a local community decision. I need to reemphasize, I need to reemphasize the issue that most of our state doesn't have the benefit of building departments to help not only guide them through this deliberation, but to take action in any way, shape or form. And I would reemphasize that most of our state, the way it finds out about what's available under the new code once adopted, is what's available at suppliers. So we're resigning all of these communities that don't have building departments to now have to put sprinklers in? They won't do it because they don't know any better. They're not flaunting the law, I don't think. There may be a little bit of that, but if how they know about codes is what they're able to purchase, how are they going to know that they're supposed to put sprinkler systems in homes? It will sound ludicrous to a number of them, I've got to tell you. In conversations in outstate Nebraska it will sound ludicrous and they won't do it. What will be faced with next are requests that we enforce. We don't have a state enforcement agency. How much do you think the fiscal bill would be on this update? How much do you think the fiscal note would be if all of a sudden we had to put together an enforcing agency? We're not talking about that. There is no fiscal note on this other than the fiscal note that will be visited upon people who sit down and start looking at the cost of building a new home. I am in support of AM599. I'm also in support of AM348. These are good clean-up components. We've spent a lot of time talking about this bill, this issue, interim study, came up with the significant compromise that allows communities to opt in. And we already know two of those more significant communities

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don't plan to opt in. Render some of this discussion about opt in and opt out, moot, except... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR GLOOR: Thank you, Mr. President. Except for the vast majority of the state geographically that doesn't have the benefit of that guidance and won't be in a position to opt out. Remember that in this discussion. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Louden, you're recognized. [LB546]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I rise as...some questions on this particular bill, LB546. What I'm wondering about is, what we were doing here because we already have statutes that have these...these towns can adopt these codes already. And the handout that was put around I think by Senator Gloor, and would Senator Gloor yield for questions. [LB546]

SENATOR CARLSON: Senator Gloor, would you yield? [LB546]

SENATOR GLOOR: Yes, I will, gladly. [LB546]

SENATOR LOUDEN: On this one handout that shows a picture of a house and a gooseneck pipe and \$5,150 and all that, and it said \$4,000 to sprinkle a 2,500 foot square foot house, that's at \$1.75 a square foot. That's the one we're looking at. [LB546]

SENATOR GLOOR: Correct. [LB546]

SENATOR LOUDEN: And then over on the next part it says upgrade the water service from three-quarters of an inch service, is that to an inch and a half service? Is that what

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the code would require? [LB546]

SENATOR GLOOR: Yes. [LB546]

SENATOR LOUDEN: Good Lord, do you realize how big inch and half service...(laugh) I mean there's irrigation wells that don't hardly have that big of a service. And I'm wondering how many gallon a minute at municipal water pressure 50 pounds can go through that. And the reason you're doing that, I presume, is so that you can handle this sprinkler system in the house. I question whether that's necessary. I think we're putting a lot of unnecessary expense on other people as they're building these houses. Thank you, Senator Gloor. As I go on with my understanding, and here we get to...what is it, as I always say the rubber hits the road, but when you look on page 5 of the bill, Section 4 in your original sections, that are being repealed. Now what this bill does is repeal those building codes that we have in code now. And I question why would we be repealing those codes when we already have something in statutes that these municipalities and towns can go ahead and do this now so long as they coincide with state building codes. So I'm wondering what we're having the discussion about today other than the fact that we're going to make a bunch of people pay a whole bunch of money in order to build houses. And I don't know if that's the best way to worry about fires. When I look at the committee statement, the people that testified for or against this bill, the opponents were mostly the National Fire Protection Association, State Farm Insurance, State Volunteer Fire Fighting Association, North Platte Fire Department, and the fire chiefs. All of these people were against this. Mostly the people that were for it were people that were going to do the construction. So when you...I question that. When you have the fire people that fight these fires and they're not exactly in favor of these sprinkler systems in residential homes, I question if this is a good idea that we should be passing legislation to require it when it's already in statute that the towns and municipalities can put that in there themselves. There's nothing in statute that says if you want to build a house that you don't have to go ahead and put a sprinkler system in there. There's nothing in statute that's against the law to put it in. You can put it in. But should we be putting

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statutes that you have to put it in. There's the big difference in there and there's where the cost comes up. Usually a lot of smoke alarms and detectors and other issues like that in the way the houses are built are a lot better for fire protection and having some codes on the electrical wiring... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR LOUDEN: ...than to pass laws that we got to have a sprinkler in the house. My last question would be, if something kicks that sprinkler off, I tell you what, you're going to redo all your furniture and everything you have in your house because with an inch and a half pipe shooting water into your house when that thing goes off, why, you don't have anything left afterwards. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Louden. Senator Wallman, you're recognized. [LB546]

SENATOR WALLMAN: Thank you, Mr. President. And I have to agree with my good friend, Senator Louden. If those sprinklers go off, if you have a major leak, your carpets are shot, your furniture is shot. And I hate to pass regulations. Am I against sprinklers? Not in big commercial buildings, maybe, but in homeowners. My house is over 100 years old. It doesn't have sprinklers, and it's still standing, but I redid the wiring. So he's absolutely right. Wiring is probably the most important, and also your furnace and things like that, that you keep things up. So I appreciate Senator Gloor bringing something forth, but I hate to pass regulations all the time out of this building. And thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Wallman. Senators still wishing to speak include Krist, Smith, Schumacher, Nelson, Cook. Senator Krist, you're recognized. [LB546]

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SENATOR KRIST: Please refer to the handout, if you will, for a second and let me say once again, I do not agree that we should be mandating fire sprinkler systems in the homes. That's not what this is about. This is about opt in or opt out. This is about having now, according to our Attorney General, to pass and to put in force a code, a building code. I think they should be passed intact and it should be passed to the local level for an opt out process. Please refer to the second to the last page in the handout, that is stapled, to you, which represents the current statutes that are in place. And I see there's not a whole lot of attention going on so you won't be able to follow this later on when you're voting, but listen to what I am saying, if you would please. (Section) 71-6406, political subdivision; building code; adopt; amend; enforce. Current statute in place. (1) Any political subdivision may enact, administer, or enforce a local building or construction code if or as long as such political subdivision adopts the state building code. So Senator Loudon, I'll speak to your question. What that means is, we pass building codes. A current code in place is the 2000 code. We need to adopt a new building code. And then once the city or municipality or village adopts the code, they can opt out. That's what the statute currently says. The fact that we would say a village does not have the brain power, the muscle, the human interest, the people in place to make that decision for themselves, is ludicrous. I've talked to many villages who say, we're not adopting the fire code, and we have been in concert or in contact with the Omaha or Lincoln area, and they're telling us what their thought process is, and they're giving us the information. This is not about whether or not we're going to mandate somebody has to put a fire sprinkler in their house. This is allowing them to opt out of a current code. I wonder if Senator Smith would yield to a question. [LB546]

SENATOR CARLSON: Senator Smith, would you yield? [LB546]

SENATOR SMITH: Yes, I will. [LB546]

SENATOR KRIST: In the past, before it was so widely understood that an interrupter for a garage door going down would stop and not compress a child's head, was there ever,

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to your knowledge in your business, someone who said, oh, that's ridiculous, we don't need one of those things, it adds cost to the garage door. [LB546]

SENATOR SMITH: I'm not aware of the original discussions or decisions on that but it certainly is a great safety feature. [LB546]

SENATOR KRIST: Okay. And I would remind this body that the same people, who have asked Senator Gloor to bring this legislation forward in the past, have asked us not to put smoke detectors and alarms in homes because it was a waste of time and it added cost on to it. This same group of people said, you know, what, we don't need GFIs in our home, they just add cost to the home. The process is we adopt a code. The process then is this state opts out of whatever doesn't meet their local environment. That's all this is about. This is not a win or lose situation for Senator Gloor. It is a win or lose situation for this body to understand that philosophically our role has changed in code adaptation. The Attorney General has ruled that we have to deal with each code as they come down. And I contend that we do not have the expertise in this room to exempt ourself from a particular area. I would contend that that needs to go on at a lower level where the expertise is there. We have a plumbing code. We have an electrical code. We have an energy efficiency code. We have a building code for residential. We have a building code for commercial. We either... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR KRIST: ...pass those codes on or we don't pass those codes on. But when we eliminate one section of those codes, I think we do the citizens in the state a disservice. Let me say it again. I do not think we need to mandate fire suppression systems in residential communities right now because the technology is not there, and the industry is not there right now in the state. But I think that's a decision that needs to be made by the village, city, cities of the municipal class, of the primary class, and I think there's enough intelligence and well-being and well-to-do folks within the area in



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the decision making process that they could help make a proper decision at the lower level. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Krist. (Visitors introduced.) Senator Smith, you're recognized. [LB546]

SENATOR SMITH: Thank you, Mr. President. I wanted to stand in support of the committee's amendment and the underlying bill, LB546. And Senator Krist brought up garage doors, so I just wanted to...he's making a comparison between that and what we're looking at with this bill. And, you know, with the safety devices that were created to protect the garage doors from coming down, there was no protection there originally. The protection was added. Obviously, a very good feature. In residential code today there are safety features that are required. The sprinkler system for residential is going beyond that, and there has been some discussion as to whether the product, the technology, if you would, is sufficient now to really be able to do a good job in that type of protection. And I know that's a point of debate, but the point I wanted to make is that there is much more of a risk to the proposal that Senator Krist is offering here in his approach than is what is found in AM348 and LB546. And really it comes down to the default position. The default position in the opt out provision is to force sprinkler systems for residential construction. And this could potentially happen, municipalities forcing sprinklers simply because the local governing body was not up to speed and sufficient to be on top of this issue. Now Senator Krist mentioned that just because, you know, we're saying they don't have the brain power or the muscle, that's not really what the issue is. It's about them having the time, and it's really about the risk of this default position. Rather, the default position should be not to force sprinkler systems in residential dwellings, which is the opt in approach. Now this still requires or it allows there to be a voluntary addition of the sprinkler systems to the dwellings. It doesn't prevent that. It doesn't prevent that safety component if that's what the builder wants to do, if that's what the consumer building the home wants to do. It still allows that. It's simply the default position. And there's a greater risk in that default position of an opt

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out in terms of potential cost to the consumer, the cost to the builder, and the consumer getting something that they really did not intend to have. So with that, I'm going to ask also Senator...if Senator Gloor would yield to a question, please. [LB546]

SENATOR CARLSON: Senator Gloor, will you yield? [LB546]

SENATOR GLOOR: Absolutely. [LB546]

SENATOR SMITH: Senator Gloor, there were some comments made by Senator Loudon earlier and I was a little bit confused with some of that give and take. Could you go back and clarify some of the comments that Senator Loudon made and tell me your take on that. Do you see any corrections that should have been made there? [LB546]

SENATOR GLOOR: Certainly. Thank you, Senator Smith. Senator Loudon has hit the nail on the head about his concern and the challenges or problems with instituting a requirement that sprinklers go into homes. I understand Senator Loudon, like I, got so worked up over it, did not realize that, in fact, the bill is trying to, and the amendments, are trying to accomplish just exactly what he would like to see. And again we go back to the issue here is opt in or opt out. [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR GLOOR: Thank you, Mr. President. Issues like moving to an inch and a half service line is an example of one of the reasons that there is a cost. And imagine, if you're in Senator Loudon's district and you're out with a well, the kind of added expense you're going to have when you have a tank that's going to have to be able to handle enough water pressure to work sprinkler systems. And all of this is part of the added cost. All of this is part of my concern, like you, that there is a risk. That people will, in fact, not act on this, not realize it's in place. And by default, now be in violation of the code if we make it an opt in...or an opt out rather than an opt in. So I hope that clarifies

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it a little bit. I'm in support of LB546, AM348, and the committee amendment that goes along with that, AM599. And I think everybody, once we get through this, will be also. Thank you. [LB546]

SENATOR SMITH: Thank you, Senator Gloor and thank you, Mr. President. [LB546]

SENATOR CARLSON: Time. Thank you, Senator Smith and Senator Gloor. Senator Schumacher, you're recognized. [LB546]

SENATOR SCHUMACHER: Mr. President and members of the body, I rise in support of the existing amendments and in support of the underlying bill. This is, for the most part, an academic exercise with very little meaning for the world. The big cities, Omaha and Lincoln and your first-class cities are going to work on their own fire codes. They're already talking of doing the 2012 one. The little towns, we have 400 of them with under 500 population, chances are they have a code book adopted some years ago in which it basically says, oh, yeah, and we adopt the international or whatever fire code as it may from time to time be amended. The Attorney General has said you can't do that because that's giving to some far away place authority to enter into our codes and our laws. So they probably don't even have a code today because it has all been probably unconstitutional under the Attorney General's Opinion. This particular law, if you parse through it, applies to state buildings, and to those towns and counties who adopted a building code, much of which is none now because they're building codes are not applicable under the Attorney General's Opinion. So we're basically saying, look, for those towns and counties that go ahead and adopt a building code, do they adopt it with the presumption being that they want sprinklers or they don't want sprinklers. And seeing as how this is Nebraska and we are...tend to want to do things that are in a commonsense way, most of those cities, most of those counties, who already aren't big enough to have sophisticated operations, are going to want to say, no fire sprinklers just yet for very commonsense reasons, some of which have been addressed here. If you've got a rural situation where you got a well, and that well runs on electric power, what's

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the first thing to go in a fire, your breakers. Breakers kill the well. The well doesn't have pressure, and what happens, you don't have your fire sprinklers working. Or the fire sprinklers are up in the ceiling, and your propane tank runs empty and, lo and behold, the pipes break, and you've got a house just full of water. Those kind of things. Let's do these cities and these counties a simple favor and say, look, we're going to guess what you're going to guess, and we're going to say that a default position is if you adopt a fire code, you do not want the sprinkler systems. If you want the sprinkler systems, then you've got to affirmatively say, yes, we want the sprinkler systems and educate your population accordingly. It seems to me this is simple common sense. Let's do what most people are going to do. Let's set that as the default, give them the option to opt in and, yes, there's going to be some fine points where the building code should probably be tweaked, but they probably don't even have a building code anyway. So I support the opt in, if you want an opt in position rather than you have to go through the paperwork that most of them won't realize they have to do anyway to opt out. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Nelson, you're recognized. [LB546]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question or two of Senator Gloor, if he will yield. [LB546]

SENATOR GLOOR: I would yield. [LB546]

SENATOR CARLSON: Senator Gloor. [LB546]

SENATOR NELSON: Thank you, Senator Gloor. I'm...this is an opt in and opt out debate, and I'm going to bring up just a small diversion for my own edification here. Looking at the committee statement it says, LB546 also amends 71-6405 and would permit state agencies to amend the state building code by adopting Section R313,

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should they choose to do so. And if you look at the bottom of page 2, the green copy there, 71-6405 where it begins, all state agencies shall comply with the state building code. Then you get over toward the end there, toward the end of that section and added in there and they may include adoption of...in other words, a state agency may include adoption of Section R313 of the residential code. Can you give me an example why would we want to permit one of our state agencies to adopt Section R313 if and when our general policy is that we're not going to do that? I can understand towns, municipalities, but give me an example about why we would let a state agency do that in derogation of our overall policy. [LB546]

SENATOR GLOOR: Thank you, Senator Nelson and I can always count on you of reading, about as thoroughly as anybody I know, of the bills that are in front of us. Here's the reason and rationale. We do have state agencies that occasionally build private residences. Doesn't happen very often but it's occasionally one of those where they build a private residence. It may be Game and Parks where the place for somebody that oversees a park to live. But occasionally that happens, I was told, as we put this together. We are providing the state the same opportunity as we are providing individual municipalities. And that is, if for reasons that might have to do with prairie fires, that the decision is that there should be a sprinkler system built into that new residence. We're letting the state and the state agencies do the same thing we're letting individual cities, counties, the building departments do. [LB546]

SENATOR NELSON: All right. Thank you. That does answer that. I guess I was thinking more in terms if a new state building goes up that's going to house the Department of Labor or something like that, they wouldn't necessarily have the opportunity to say, well, we want to adopt this so that we got sprinklers in our building. That would be subject to, I guess... [LB546]

SENATOR GLOOR: Different codes. This bill really relates only to the residential code which has two, single or dual family residences, and so a whole set of codes is separate

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and distinct from LB546 and the attached amendments. [LB546]

SENATOR NELSON: Okay, well, that's good. So residential only is what we're talking about in this instance. Thank you, Senator Gloor. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Gloor. Senator Cook, you're recognized. [LB546]

SENATOR COOK: Thank you, Mr. President. Good morning, colleagues. I, along with Senator Krist, were the no votes for this to come out of committee. And while I wish it was because I had...was able to perform such a thorough and thoughtful analysis of the policy, and how it would work within my district and statewide, I can't actually say that. I say that it really comes from a place of the bill not really affecting what I think our mission is in the Legislature as public servants, and that is to promote public health and safety across the state. In committee we talked about all kinds of things, about the fact that there aren't that many building inspectors. So let's say there is a code and it's in theory enforced statewide, inspectors aren't that easy to come by in greater Nebraska really much outside of the Omaha and Lincoln metropolitan areas. So as an individual who has been in two house fires where there were no sprinkler systems, and it was advised by the fire fighters that the main thing that kind of kills people in a fire is the smoke inhalation from all of the toxins that come out of the burning synthetic fabrics in the home. And recognizing that this, you know, is in theory a safety feature, I was just too conflicted to really be able to confidently say that this is a piece of legislation that we would put on our books that would be helpful to people building buildings, but in my mind, more importantly, people who are the residents and occupants of buildings to make them safer. So with that, I would yield the rest of my time to Senator Krist, if he would like it. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Cook. Senator Krist, 3 minutes. [LB546]

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SENATOR KRIST: As soon as a few more senators are back in the Chamber and not occupied, so please, if you will, on the second to the last page of the handout that I gave you, let me reiterate one more time. When we pass a...now that we have to pass a code, it has to come through one of our committees. In the case of Urban Affairs, we deal with almost everything except for electrical code. We look at it. We hear testimony on it. We hear both sides of the issue, and we say, we are or we are not going to adopt the 2009 code. I am in support of AM348, the amendment, and AM599, and I'm also in support of passing the 2009 code. So I'm conflicted in my testimony here because as it stands right now, the only thing that I disagree with is what LB546 does in terms of putting it as an opt in. The code is the code. I believe, philosophically, we need to adjust our mode of thinking to say, every time we vote on a code going out, all of those parameters apply. Why am I confident in saying that those parameters should apply? Because on the top of that page, and I will read it again, any political subdivision may enact, administer, or enforce a local building or construction code if or as long as such political subdivision adopts the state building code. If we adopt 2009, it becomes the state code. Then they can opt out of whatever does not meet their local parameters. And let me tell you how important that is. In Senator Heidemann's district there is a village. That village does not think about codes. They don't have to. We tell them not to think about it. They have allowed an SID, yeah, that's that bad word again, Sanitary Improvement District to be built in their village, near their village. And the only supporter fire suppression they have... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR KRIST: ...is a volunteer fire department. They did not deal with that situation and now there are \$1.5 million to \$2.2 million homes around the golf course that do not have a hydrant system in place, they do not have fire suppression, they do not have a water tower. When a \$1.5 million home was struck by lightning last summer, the volunteer fire department chief tells me the only thing they could fight it with, or would have been able to fight it with, is garden hoses and what they brought to the scene. We

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need to allow our subdivisions to have a discussion and opt out of the fire code. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Krist. Senator Ken Haar, you're recognized. [LB546]

SENATOR HAAR: Mr. President and members of the body, I rise in support of LB546 and the AM348. Back in the early part of...well, it was about 2002 and so on, I built my own house. And I did a lot of the work in that myself and I love gadgets. So I've got data lines, I've got security system on all the doors and windows and so on and so forth. But what I'm finding is that even for people who love gadgets, the maintenance has to be reasonable. And so I like what Senator Gloor has brought to the floor because I think this is not only very questionable on a commonsense basis about freezing lines and all that sort of thing, but it adds one more level of maintenance to homes for people who generally are really busy with their lives. And we're going to come up with this more and more as our homes become smarter and smarter. One of the things that's on the horizon is the smart grid. And that means, for example, that the grid will talk to...that you'll be charged for electricity that you use at different times of the day or night and it's going to be much cheaper in the nighttime because that's when the demand is less. So the smart grid may literally talk to your washing machine and turn it on because that's the time when you can use the electricity for the least amount. Now if that's going to happen, it's going to have to be fairly transparent to most homeowners because they're not going to want to have to program their computer every day to talk about their energy usage in their house. And I think that relates to what we're talking about in this bill as well. But this kind of system will require additional setup. And the cost certainly we've talked about, I think that's somewhat unreasonable. And maintenance, and it has to be usable by ordinary citizens. And I agree with somebody earlier who said, most people will probably eventually just turn off the system because they're not going to be able to afford or they don't want to bother with it. And the other thing, because...simply because they have it, there's going to be a feeling of security that's not there, especially if they



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turn it off. So I believe that on things like this that are so obviously questionable that the approach taken by LB546 and AM348 is reasonable. The only problem I have is that someone have to burn their priority bill on this issue, which I think is very common sense. So with that, I will vote...support LB546 and AM348. Thank you very much.  
[LB546]

SENATOR CARLSON: Thank you, Senator Haar. There are no more lights on, Senator McGill, you're recognized to close on AM599. [LB546]

SENATOR MCGILL: Members of the body, this is just the amendment to the amendment that allows our municipalities to actually work ahead and be on a future building code such as Omaha, who is right now working on the 2012 code. So I urge everyone to vote in favor of this. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator McGill. Members, you've heard the closing. The question is, shall the amendment to the committee amendment to LB546 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB546]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment to the committee amendments. [LB546]

SENATOR CARLSON: The amendment is adopted. The floor is now back open for discussion on AM348 to LB546. Seeing no lights, Senator McGill, you're recognized to close on AM348. [LB546]

SENATOR MCGILL: Mr. President and members of the body, the committee amendment is what makes it possible for the Legislature to now vote on building codes every time they come before us instead of the automatic adoption. And it also makes it clear that the cities or local municipalities can modify by either deleting or adding things

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to the building code so they have that local control themselves. With that, I urge your green vote. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator McGill. Senators, you've heard the closing on AM348 to LB546. The question is, shall the amendment be adopted? All those in favor vote aye; opposed vote nay. Has everyone voted who wishes to vote? Record, Mr. Clerk. [LB546]

CLERK: 34 ayes, 0 nays, Mr. President on adoption of committee amendments. [LB546]

SENATOR CARLSON: Thank you, Mr. Clerk. The amendment is adopted. Mr. Clerk, for an announcement. [LB546]

CLERK: Mr. President, I have some items, first of all. The Committee on Banking, chaired by Senator Pahls reports LB388 to General File. Education chaired by Senator Adams reports LB204 to General File, and Judiciary chaired by Senator Ashford reports LB512 to General File with amendments. I have a hearing notice from the Education Committee. And priority bill designation, Senator Adams LB637 is one of the Education Committee's priorities. Senator Pahls, LB544 is his personal priority. And Appropriations Committee, LB464 is one of the two committee priorities. (Legislative Journal pages 775-785.) [LB388 LB204 LB512 LB637 LB544 LB464]

Mr. President, with respect to the next item on LB546, Senator Krist would move to amend, AM692. (Legislative Journal page 785.) [LB546]

SENATOR CARLSON: Senator Krist, you're recognized to open on AM692. [LB546]

SENATOR KRIST: Thank you, Mr. President. Some, if not all, of the comments that I have made leading up to this point are in relationship to what I propose that we do to remain consistent, let me say that again, consistent with the Nebraska way of doing

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business when it refers to codes. We currently adopt a code, and we currently allow the municipalities to opt out of a provision within the code. I would bring to your mind both the electrical code, the boiler code, the...and the plumbing codes are currently set so that the local municipality can evaluate the code that the state has adopted and they can opt out. And I will once again reiterate, 71-6406. Political subdivision; building code; adopt; amend; or enforce. Item (1) any political subdivision may enact, administer, or enforce a local building code or construction code if or as long as such political subdivision adopts the state code. A political subdivision shall regularly update its code. So anyone who tells me that the local municipalities, the villages, the county...or the villages or outstate Nebraska is not reviewing their codes, and is not doing something in the interest of its citizenry, is in violation of the statute. Neither here nor there. What I am suggesting is this floor amendment would restore the fire suppression in residential buildings, in new construction. It would restore that in the 2009 code. But again, it would allow the local municipalities, villages, townships, to opt out of building it. And once again I will say, the state of Nebraska is not currently capable of building to the standard that's set in 2009. But the Attorney General has given us, the Legislature, no choice. We either have to adopt 2009 or not. So I would suggest to you that when we look at all the other codes that are here, we are not remaining consistent because we are allowing one group or one lobby to come to us and say, we don't want to do that. We don't want to put GFIs in your house. We don't, because it drives up the cost. We don't want to put smoke detectors or fire detectors in your house because it drives up the cost. Yet, after the General Affairs Committee considered the GFI exemption five years ago, it reversed it in the code. So this is not about winning or losing. This is about doing what we have to do as a Legislature. This is not an easy job. We have to evaluate a code and we have to adopt it. If we go down this path of cutting out bits and pieces, surgically removing what we don't want people to do, I think we're doing a disservice to those townships out there, those villages. I think we should adopt the code as it is or not, because it's good for Nebraska in general. So in this case of this code, which, by the way, is about two and a half inches thick, we're saying everything is good in there, except. And I would venture to guess that if you went back to your townships or your small towns or your

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cities or your counties and they looked at the rest of the building code, they would find problems somewhere in there. So what is our business? Is our business to look at each one of those and exempt out so that they have to opt in? We'll be here longer than 90 days, folks. We'll be here a lot longer than that because we will look at each one of these exemptions. That's not our job. Let me say it again, I don't think that we're capable of having new construction in the residential area requiring them. I don't think we're capable of requiring them to put sprinklers in every home. I don't think we're capable of maintaining it in outstate Nebraska. I think there's some problems. But philosophically what I'm saying here with this floor amendment is return the code adaptation process to the way we have done things, and enforce and allow those local municipalities, villages, townships, to opt out, which they're already doing. In some ways, Senator Schumacher has made a valid point. This is an academic discussion because in committee we heard over and over again, we don't care what code you adopt because we're looking at what's right for our town, our city, our village. Please consider AM692 and restore us to where we are, where we should be in adopting a code. Consider it as a move back to where we need to be to status quo, and I think that's a good place to be, and that forces the local townships, village, municipalities, subdivisions to make the decision for themselves. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Krist. Members, you've heard the opening on AM692 to LB546. The floor is now open for debate. Senators wishing to speak are McGill, Gloor, Lautenbaugh, McCoy, Smith, and Krist. Senator McGill, you're recognized. [LB546]

SENATOR MCGILL: Mr. President and members of the body, this very debate right now that we're really launching into is what gave me so much heartburn over this issue for a couple of years, because it really is about the philosophy of opting in or out or the precedence that we're setting. Like Senator Krist has said, in terms of, you know, do we have the expertise, the speciality at our level to really be making these decisions about codes? Clearly the bigger cities have a lot of staff that dedicate their time to specifically

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going through every part of the bill and deciding what they want their code to look like for their city. And so honestly, Senator Krist makes some very, very valid points. That's why this has been the bane of my existence (laugh) for over a year. At the same time it's been very unclear what exactly happens in a lot of rural areas when a building code is adopted, and I plan on spending this summer in an interim study looking at exactly how our codes are implemented in parts of the state that don't have that staff like in Omaha or Lincoln do. And Senator Krist is right. Many of these small towns could be calling Omaha and Lincoln and getting guidance from them and their staffs, but what about the people who live just in the rural counties and, you know, I have enough doubt in my mind that for me personally was erring on the side of caution by supporting Senator Gloor's version of the building code, but this is something that I'm not 100 percent committed to. I do have questions, and I hope people will engage in this particular part of the debate and the philosophy of whether we should be passing the code as it is for local control decisions, or if we should, if we know no one is going to adopt the sprinklers, we should just take them out at this level. Like I said, I've lost sleep over this and it's been the bane of my existence because it's a really tough decision. It's a tough call and I hope people will engage and really think about what we are doing here regardless of where you ultimately stand on the bill. Thank you, Mr. President.  
[LB546]

SENATOR CARLSON: Thank you, Senator McGill. Senator Gloor, you're recognized.  
[LB546]

SENATOR GLOOR: Thank you, Mr. President. I appreciate Senator McGill's support and her efforts and the committee's effort on working through this. Obviously, a majority of the committee, large majority of the committee moved this forward because in the final analysis, it's a commonsense approach. This is consistent. What we're doing and talking about is consistent. And by the way, I would be remiss if I didn't say, Senator Krist and I have had back and forth discussions about this and we are in agreement, as he says, on the vast majority of things. We've decided to dance together on this issue

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and we're dancing together with one little problem and that is, we can't decide who is going to lead. And that has to do with the opt in and opt out components. I think the issue here is we need to, from the standpoint of default, to make sure we're not passing legislation that we can't enforce or will be forced to be put in a plan to enforce, because the default on this is people will build homes won't put in sprinkler systems because they didn't opt out. This needs to be an opt in component. The consistency has to do with the fact the Legislature has dealt with issues related to codes. I mentioned it, I'll mention it before, fault protectors that was Senator Giese's bill several years ago. Senator Hadley has a bill that deals with plumbing and plumbing codes. Senator Haar and I talked about issues related to energy and energy codes that have come up and will come up in the future. This isn't out of the ordinary for us. And think about this, if you're on Health and Human Services, we make decisions about scope of practice. Is this the body that should be involved in making decisions about scope of practice with all of these different medical specialties in professions and what they can do? Is that not more sophisticated than talking about...occasionally talking about what components of this new code don't make sense for Nebraska and Nebraskans? A lot of states, if you look at the map, a lot of states have had this discussion, have made the decision to be blue states. Very few, like California, have made the decision to do otherwise. I find AM692 is not a bill that I can...or an amendment that I can support. It's contrary to what we're trying to accomplish with this bill. It undermines LB546, undermines it to the extent that LB546, in my mind, won't exist if AM692 is attached to it. Thank you, members.

[LB546]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Lautenbaugh, you're recognized. [LB546]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I went back and forth on whether I would say anything at all about this, and I probably erred on the wrong side, and I don't want to cut in on the dance between Senators Gloor and Krist. That much is certain. But I don't support this amendment. And I do

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understand what Senator Gloor is trying to accomplish with his priority bill. And I just feel that regardless...we've heard opinions it's consistent, it's not consistent with our regular practice, because of the magnitude of this expense and the magnitude of the sprinkler systems, I think it is the best approach to allow the municipalities and the villages and the local control entities to opt into this rather than to have to opt out of it. I just see this as a different kind of a thing and a different level of intrusion. And so very simply put, I can't support this amendment, but I do support the underlying bill. And I'll yield the rest of my time to Senator Gloor, if he would like it. [LB546]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Gloor, you have 3 minutes 50 seconds. [LB546]

SENATOR GLOOR: Well, I don't want to beat the issue to death. I think as people have trickled back in and taken their seats and listened to the debate, they understand that we're down to this issue of opt in and opt out. And I have to say again, this isn't unusual for us as a body. It won't be unusual in the future. What we have to be careful of is to recognize that a vast majority of our state does not have built into it either the organizational capacity or the interest to sit down and deal with these and can't put themselves in a position of pulling out. That's a big concern for me. And I say that after two years of working on this. Senator Krist brought up a couple of legitimate issues and asked Senator Smith about garage door closures, brought up smoke detectors. First of all, I don't know that anybody in the building industry argued against smoke detectors or automatic retractors on garage door closures because they're pennies by comparison. And you can get smoke detectors given to you by any number of entities that are out there and the installation now of smoke detectors is built into homes and it cost pennies by comparison. What doesn't cost pennies is adding the sprinkler system to your home. It cost thousands of dollars just for installation, not including...not including the maintenance. Seems silly to me that we would run the risk at all in a default position. That we would run the risk at all of having these go into homes and just as significantly have homes built without them when they should have had public entities who opted

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them out and didn't know to do it. Didn't take the time to do it or weren't well enough organized to do it. AM692 is a worrisome thing. Don't pass legislation unless you can enforce it, and we can't enforce AM692. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator Gloor. Senator McCoy, you're recognized. [LB546]

SENATOR McCOY: Thank you, Mr. President and members. I rise in support of the underlying bill, LB546, but in opposition to AM692, for a couple of simple reasons, I believe, that I'll outline to you. And I'd beg the body's indulgence while I relate a little bit of a story. As many of you know, this is my industry, and I'm a proud member of the construction and the home building and remodeling industry. It's a fairly rare occurrence that we have such a member of the industry in this body. It goes back to former Senator Jim Jensen since we've had someone who was directly involved in this industry that was a member of the Legislature. And I'm very humble to be able to represent our industry here in the Legislature. And I appreciate very much what Senator McGill mentioned as chairperson of the Urban Affairs Committee. And I appreciate what she talked about in her words a few moments ago and that is, the willingness and the conscious decision by her and it appears by majority of the committee, to take a long view on this issue. And by that, I mean a long view in recognizing that the building construction industry is very different from the Panhandle of our state than it is to Douglas or Sarpy or Lancaster Counties. You know, we're such a diverse state, as we all know, across east and west and north and south, and our industry is just as diverse. And when I mentioned I begged the body's indulgence, I'd relate just a little bit of my background. I grew up on a cow-calf operation and cattle ranch on the Colorado-Nebraska border, the oldest of five. I have three younger brothers, as many of you know. Dad, thinking that we didn't have enough work to keep us boys busy, decided to start a construction company when I was in grade school. So I learned this industry, this trade, in a dual capacity. We ranched and we did construction. You know, you find, and I'm sure Senator McGill has and other members of the committee and Senator



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Gloor, they've looked at this issue, that my experience, my upbringing is pretty common across the state of Nebraska. You have a lot of home builders and remodelers and construction folks that are just...that are trying to get by out there in rural Nebraska. And they have learned a skill that in addition to agriculture or whatever other...maybe teaching, whatever their other occupation is, and when the weather is nice and it's a building and construction season, they're out there working. Or maybe in the winter, on the weekends and the evenings, they're doing interior remodeling. It's pretty consistent across the state. You know, and also as many of you know as you look at the numbers, the building and construction industry, the home building industry across our state is in a down time right now. And, hopefully, we're on the upswing out of it, but it's been a very difficult industry to be in this last three or four years. And what I'm afraid, while I appreciate and understand Senator Krist's sentiments on his amendment, it's probably just a genuine difference of opinion. I believe that local municipalities should be able to choose to opt in, rather than opt out. We just don't need any other stumbling blocks to help this industry rebound. And it's just too diverse across our state to go about it in any other way than what LB546 does. I might also mention as a member of the Natural Resources Committee, the other reason I believe that we should proceed as... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR McCOY: Thank you, Mr. President. We should proceed as LB546 has in place is because as we look at energy efficiencies and energy improvements over this next few years. I appreciate the fact that the Urban Affairs Committee is going to do an interim study resolution. I think it's much needed because we probably do need to look at going forward with technology advancing at the rate that it is, how we handle this issue across the state. And do we need to establish some better consistencies? And with that, again I stand in support of LB546, but in opposition to AM692. Thank you, Mr. President. [LB546]

SENATOR CARLSON: Thank you, Senator McCoy. (Visitors introduced.) Those still

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wishing to speak include Senators Krist, Ken Haar, and Wallman. Senator Krist, you're recognized. [LB546]

SENATOR KRIST: Thank you, Mr. President and colleagues. We have had to had...we have to have had this discussion today, philosophically. I respect Senator McCoy's opinion. I'm glad he got up on the mike because he's probably the only person in this Chamber that can speak to building and the industry as it goes on today and I appreciate what he said. In deference to Senator Gloor, I have never, nor will I engage, nor will I perceive to engage in a dance with you, but if someone would lead, I'll tell you who that would be. (Laughter) That's a joke. The point being, we have danced on this issue, metaphorically. We do disagree on whether there should be an opt in or opt out, but you need to understand that given the current AG's Opinion on these building codes, you will be asked to pass a code that you will pass on to the state. I had two choices today. I could put a floor amendment up there to go back to the 2006 code and adopt it, knowing that the sprinklers were not in that code, or I could have put AM692 up there, which essentially said, we go back to an opt out process. I am so happy we had this discussion today. I have talked to Senator Wightman about referencing these kinds of bills to committee. It is my personal opinion, those of us who enjoyed his presence, in my opinion, I would say we need to have further discussions about these codes and they need to come out of one committee. In a term limited environment we have to have the consistency and the continuity to be able to put forth the right kind of legislation. I would argue that electric, plumbing, building codes of all kind need to come through one committee. I would lobby for the Urban Affairs, but there's also lobby for other committees. The continuity and consistency may very well lie within the legal counsel who is in the committee, who has more tenure than probably, or would, than many of the senators who will be elected. I appreciate the discussion because it came to a technical nature of should we opt in or should we opt out. And these kinds of discussions need to happen on the floor in a nontoxic manner so we can get to a point to realize the decisions that we're making, oh, it's just another code. It's not just another code. If we don't insist on the villages to at least take a snapshot of what they're doing

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out there when they allow an SID to build just outside of their village limits, they will continue to build buildings and, potentially, health and safety factors are not going to be taken into account. We can't allow that to happen all over the state because here's what happens, folks. That SID at some point, at some point, may be annexed, and if they didn't comply with the code, look what the city is taking on themselves when they annex that piece of property. So it's not just another code. It is the state building code. And when we pass it, they all have the opportunity to make local consideration their top priority in adopting that code. I want you to understand I felt very strongly about having this conversation. I felt very strongly about being very reverent and respectful of my fellow members in Urban Affairs. I talked to my Chair, I made sure she understood this was going to be a discussion on the floor. I've talked to Senator Gloor. He knows this is not a win-win or a lose-lose. It is an opinion, opting in or opting out, but it's a discussion that you all need to realize is extremely important because the codes, the building codes... [LB546]

SENATOR CARLSON: One minute. [LB546]

SENATOR KRIST: ...are important. And I want to take one minute to thank the Urban Affairs Committee past, and the Urban Committee present, for listening to the discussion, and over the past year and a half or two years making some pretty good decisions and absorbing where we're at. And I think I especially want to thank the legal counsel in Urban Affairs for all of her efforts in this area. With that, Mr. President, I'd like to withdraw AM692. [LB546]

SENATOR CARLSON: Thank you, Senator Krist. So ordered. [LB546]

CLERK: I have nothing further on the bill, Mr. President. [LB546]

SENATOR CARLSON: We return to debate on LB546. We still have two senators wishing to speak. Senator Haar, you're recognized. [LB546]

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SENATOR HAAR: Mr. President and members of the body, I hope there's room for a little humor in the body. I want you to look at your map that Senator Gloor handed out. And in one fell swoop, if you approve of LB546, which I will vote for, you will make Nebraska a blue state. Thank you very much. (Laughter) [LB546]

SENATOR CALRSON: Thank you, Senator Haar. Senator Wallman, you're recognized. [LB546]

SENATOR WALLMAN: Thank you, Mr. President. Are there any lights on behind me? Then I'll pass. [LB546]

SENATOR CARLSON: Thank you, Senator Wallman. There are no other senators wishing to speak. Senator Gloor, you're recognized to close on LB546. [LB546]

SENATOR GLOOR: Thank you, Mr. President. Thank you, members. A good discussion and I think an important one for the longer policy discussion that we need to have and will have, I'm sure, in the future about codes, and about other components of our responsibilities in oversight. This has been a two year process or at least a two session process, and I think I've learned a lot during it. Last year my bill, as a reminder, would have, in fact, not have allowed anyone to put sprinklers in. Couldn't mandate it. No county, city building department, and the lesson to me was, we love our local control. And shouldn't take that away from local entities because they're smart enough to make that decision whether it's small county board, village, larger community that has a building department. If given the opportunity and given the information, they'll make good decisions. They're smart enough to do so. My concern, obviously, was that we had a default built in that...or didn't want to have a default built in that, put them in an uncomfortable position of, because they don't have the same resources, these being some of our smaller communities, the same resources, don't have the opportunity to wrestle with this like some of the larger communities and didn't want this to become a

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rural-urban issue. I would ask your support of LB546. I think it's the right decision and I think it will make a difference in the affordability of housing for Nebraskans of all income levels. Thank you. [LB546]

SENATOR CARLSON: Thank you, Senator Gloor. Members, you've heard the closing. The question is the advancement of LB546 to E&R Initial. All those in favor vote aye; all opposed vote nay. Has everyone voted who wishes to vote? Record, Mr. Clerk. [LB546]

CLERK: 32 ayes, 3 nays, Mr. President on the advancement of LB546. [LB546]

SENATOR CARLSON: LB546 does advance. Mr. Clerk. [LB546]

CLERK: Mr. President, LB421 is a bill by Senator Pankonin. (Read title.) Bill was introduced on January 14 of this year, at that time referred to the Natural Resources Committee. Bill was advanced to General File. There are Natural Resources Committee amendments, Mr. President. (AM228, Legislative Journal page 544.) [LB421]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Pankonin, you're recognized to open on your bill. [LB421]

SENATOR PANKONIN: Good morning, Mr. President, members. I want to preface my remarks today by thanking Chairman Langemeier and the members of the Natural Resources Committee for their unanimous vote to advance LB421 to General File. LB421 would increase the Nebraska Game and Parks Commission's annual park entry permit fees. The fee increases would become effective on January 1, 2012, to avoid disruption for the people who already purchased a permit for the coming year. When the Game and Parks Commission asked me to introduce LB421, I agreed to do so for several reasons. First, Nebraska has more than 80 state park facilities and 5 of them are located in my legislative district. The entire system consists of 8 parks, 11 historical parks, 64 recreation areas, and 2 state recreational trails. About 9 million visits to the

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state park system are recorded every year. Our state parks are an asset that many Nebraskans enjoy. They also make a positive impact on our state's economy. Tourism is the third largest industry in Nebraska. The Department of Tourism lists 15 of the state parks in the top 25 tourist attractions in this state. Next, I am concerned that increased costs and reduced revenue may increase deferred maintenance in our state parks to the point that some of them may have to be closed to protect the public from unsafe or unsanitary conditions. Game and Parks currently has about \$34 million in deferred maintenance costs. The fee increases proposed in LB421 cannot eliminate this deficit, but they can slow the deficit's growth and allow park employees to address the most urgent maintenance needs. In front of you are several...or is a package of handouts. As shown in handout number one, Nebraska's policy calls for state parks to be supported primarily by a user-based funding system. Approximately 70 percent of the operating and maintenance budget for our parks comes from fees, not taxes, paid by the people who use the parks. Only about 30 percent of the park system's budget comes from the General Fund and this percentage has been declining for years. The Game and Parks Commission has been cutting its budget, just like the rest of state government. Since 2008, Game and Parks has reduced the number of system employees from 216 to 179. At the same time, the commission has faced steadily increasing costs for equipment, materials, contracts, and fuel. Operating and maintenance services have been reduced in as many ways as possible so the failure to approve increases in the park user fees may result in reduced hours of availability and the possible closing of some of our state parks. Finally, I thought about the fact that the current annual \$20 park entry permit fee per car per calendar year has not been increased for five years. Handout number two reports Nebraska's fee is the lowest priced park entry permit fee among all the states that employ a user-fee-based system to help fund their state parks. If a trip to a state park is considered to be a form of entertainment and relaxation, it is instructive to contrast the proposed user fee increases with some other familiar sources of fun and excitement in our state. Handout number three is a comparative chart of the costs for other popular entertainment and recreation activities in our state for your review. I appreciate the time and attention you gave me when I talked to most of you about

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LB421. The questions you ask and the comments you made were helpful as I prepared for this General File debate on the bill. Several of you thought there was discussion about a park permit fee increase in the past couple of years. You remembered correctly that a number of Game and Parks fee increases were proposed by LB105 in 2009. However, before the bill was passed the fee increases for park permits were eliminated. Based on Senator Schumacher's request, you can see in handout number four that the increases proposed in LB421 would continue the trend line that, since the introduction of park fees in 1978, the fees have tracked with the Consumer Price Index over the following years. The proposed adjustments would maintain that relationship and bring them in line. And concern about how the fee increase would affect low-income households reminded me of a Nebraska retiree who testified at the public hearing on LB421. He said, of course, he would like to keep paying \$20 for the annual resident permit fee but he thought \$25 was still a real bargain in this economy. He reported the cost to his family, including his grandchildren, for recent trips to two popular Lincoln attractions--Morrill Hall and the Children's Museum. He said the price for these one-time visits far exceeded the annual fee to visit all of the state parks as often as he wanted. Hopefully, this individual's perspective is consistent with other people who are trying to make every dollar stretch as far as possible right now. I hope the information I offered helps you to see that it is time to support the park permit entry fee increases proposed in LB421. Thank you, Mr. President. [LB421]

SENATOR CARLSON: Thank you, Senator Pankonin. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as Chair of the committee, you're recognized to open on AM228. [LB421]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in strong support of LB421, and the committee amendment is kind of a trivial little piece of legislation. Currently, the park permits are required to be put in the right-hand corner of the window and all the little inspection booths that you go through to Game and Parks are on the left side so the employee that is nicely sitting in that little facility has got to walk around the

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pickup or vehicle to look at the other side, and so the committee asked why is that. And back when we were doing vehicle inspection stickers, they were on the left side, so they didn't want both of them on the left side. So the amendment allows those stickers to go back to the left side so they're on the right side of the vehicle to go in through those inspection gates. So I'd ask for your adoption of AM228. Not a big deal, I just think it makes sense while we're cleaning things up. I rise in support of LB421. I know this is a tough decision for people to make but I think as people use our parks, the number one e-mail I get is why aren't we mowing, why aren't we taking care of our parks. As you see on the agenda a little farther down we see three small parks that Game and Parks is currently running with minimal care, are going to give those back to communities if this body would so desire to do so. And so I think it's time that we give the state parks and Game and Parks the resources to do what they need to do within the Game and Parks system and keep our parks where they're a showcase to Nebraska. With that, I'd ask you to adopt AM228 as well as LB421. Thank you. [LB421]

SENATOR CARLSON: Thank you, Senator Langemeier. Members, you've heard the opening on LB421, as well as the AM228. The floor is now open for discussion. Those wishing to speak include Lautenbaugh, Krist, Harms, Wallman, Hadley, Ken Haar. Senator Lautenbaugh, you're recognized. [LB421]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body, and I do rise in support of this bill as amended and I don't know what more to say about it really than we either have to support the parks or we don't. And this is a user fee, not a tax, a user fee, and we've been down this road in the past. We've had discussions about, you know, the cost of raising permits to fund Game and Parks and in the past we've failed at that. But I think in this environment and with what Game and Parks is looking at, we are to the point where we simply don't have a choice. Just adjusting for inflation alone I think would account for most of this increase from what it was previously set at. I won't belabor the point, which I'm sure is a relief. I'll just say that I support this wholeheartedly and I think its time has come. Thank you, Mr. President. [LB421]



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SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Krist, you're recognized. Senator Krist waives. Senator Harms, you're recognized. [LB421]

SENATOR HARMS: Thank you, Mr. President. Colleagues, I rise in support of AM228 and the underlying bill, LB421. Two years ago when Senator Langemeier brought forward a whole change in a number of fees, I was one of the individuals on the floor who really fought against that, primarily because of the economy and other sorts of issues I thought that it brought forward to families. But after I look at it and see how far we are falling behind in regard to our services for the parks, Senator Langemeier was right and I was wrong, and I don't very often admit that. But you were correct. Thank you very much for doing that. My feelings are that it's time to address this issue and I think we need to make that investment in our parks and I think if we wait two or three years longer we just fall that far behind. Actually, when you move it from \$20 to \$25, colleagues, that's not very much when you compare the chart. Look at the chart that Senator Pankonin gave us. We are at the bottom and we have some of the best parks in the country. I think we need to do everything we can to continue those, to improve those so they are a good family atmosphere for us. So I support this and I thank Senator Pankonin for bringing this bill forward. Thank you, Mr. President. [LB421]

SENATOR CARLSON: Thank you, Senator Harms. Senator Wallman, you're recognized. [LB421]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Pankonin. Game and Parks thanks you and so do I. It's a courageous thing to do in today's environment but it's the right thing to do, and so I'd urge you to support this amendment and the bill. Thank you, Mr. President. [LB421]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Hadley, you're recognized. [LB421]

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SENATOR HADLEY: Mr. President, members of the body, I support the amendment and I support the underlying bill, LB421. I think the parks are an important asset to the state of Nebraska. We must keep them up as much as possible and I think this is a reasonable increase in a user fee. I will state for the record that I actually oppose all fees to get into state parks. I think they ought to be free to the citizens of Nebraska. It's too bad we're not in a financial condition that we can make that happen. Can you imagine in your cities and town if you decide to start charging admission to your municipal parks? Can you imagine in Lincoln if there was a charge to get into Pioneers Park or in Kearney to get into Memorial Park to be able to use the facilities? So I think there's an interesting philosophical question about whether or not we should be charging any admission to our parks. But given the current financial state, I realize that we can't do that. So if we're going to have the parks and keep them in the condition that we want them to be in, then I think this is an appropriate increase. I have to make one comment that I found interesting is the state of Iowa has no park entry permit. It is free to go to an Iowa park. But it's interesting how they fund them--casino receipts and General Fund. So those people in Omaha that are going across the bridge to lose money at the Iowa casinos are helping fund the citizens of Iowa to use their free parks in the state. Thank you, Mr. President. [LB421]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Ken Haar, you're recognized. [LB421]

SENATOR HAAR: Mr. President, members of the body, Saturday my wife and I went over to Branched Oak Lake, which is only a half a mile from our home, and the snow geese had arrived and just...there was this whole big clump of white in the middle of Branched Oak Lake, must have been thousands and thousands of snow geese. And somebody who had been out actually watching this whole situation for a whole day before had counted 68 bald eagles sitting on the ice and in the trees waiting for the ducks and geese who couldn't make the trip and eating fish who had been killed by the

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freeze and so on. Our state parks are an amazing and a marvelous gift to the people of Nebraska and we can't keep them up if we don't at some point think about what it costs. So I think that the cost of going from \$25 (sic) to \$30 (sic), an increase that hasn't been made in many years, is really important that we do that. We took our granddaughter to The King's Speech a couple weeks ago and by the time I bought tickets and popcorn and, you know, a bottle of water for \$4.50, whatever it was, we had spent \$30-some on that one movie, and now just for...raising the park fee from \$25 (sic) to \$30 (sic) gives us the opportunity to visit that park any time, anywhere in the state for a whole year. It's an enormous bargain. The only little hesitation, and it only lasted for about three seconds, was that when I press the green light for this it will probably show up in 2012 on some campaign literature that will say, Senator Haar raised taxes, and it won't explain how I raised taxes doing that. But those of us who are going to be running again in 2012 will see that on our brochures, and so it's a little bit of a...it's a little bit of a, you know, a tough vote but only for a few seconds. I strongly support LB421, AM228, and want to thank Senator Pankonin for making this his priority bill because it's that important. Thank you so much, Senator. [LB421]

SENATOR CARLSON: Thank you, Senator Haar. Senator Schilz, you're recognized. [LB421]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Two years ago we heard basically the same bill and two years ago it went down to the vote and, you know, that's okay. That's all right. But just let me once again stand and explain to you the situations that we see in my district with Lake McConaughy, one of the largest recreation areas in the state. This year, as we go forward into spring and summer seasons, the recreation seasons out there, Game and Parks has actually had to reduce the number of law enforcement. I think there will be one law enforcement personnel at Lake McConaughy for that whole area. There's 26,000 acre-feet of water or 26,000 square miles of water surface and 105 miles of beach. This is part of why we need this. We need it so that these folks that are having tough times economically in the state of

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Nebraska and other places have safe places to go and safe places to recreate so they don't have to spend a lot of money to go someplace else, and I think that's important. I think that makes sense to have our parks built up to the point where our people can enjoy them. Every year now for the past two years we've had bills come before the Natural Resources Committee to take parcels of land that Game and Parks has managed and controlled for years and give them back to local communities. Once again, it's a symptom of the problem and it's part of the...and I understand that some of that needs to happen now and then and make sense now and then. But the reason that we're doing it now is because there's lack of money and Game and Parks can't keep up with that, and that's okay in some of these instances. The communities are ready to step up. But I do think it's important that we make this decision today and that we move this through, because I think that it's important for the members of...for the citizens of our state to have places where they can go recreate, where it's safe, where the grass is mowed where it needs to be, where people don't have to worry about whether or not there's enough law enforcement around to take care of the issues. And I want the people of the state of Nebraska to be able to enjoy those parks and areas that they want to go to because it's their parks. And this modest increase will help alleviate some of those problems that we see. So round two, here we are, I hope that we can make this part go. So with that, I'll sit down. Thank you very much. [LB421]

SENATOR CARLSON: Thank you, Senator Schilz. Those still wishing to speak include McCoy, Council, Pirsch, Fischer, Howard, and Sullivan. Senator McCoy, you're recognized. [LB421]

SENATOR McCOY: Thank you, Mr. President, members, and I'll be brief. I support AM228 and the underlying bill, LB421, and I appreciate Senator Pankonin bringing this legislation and deeming it important enough to make it his priority bill for this 2011 Session. As it's been said by many other members of the Natural Resources Committee, we did deal with this issue. We had a good discussion in the committee about it. Even though a number of us haven't been here too many years, we have dealt

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with this topic before, as has been already talked about, and it was the tone and tenor inside this Chamber was quite a bit different last time, as many of you well remember. This is an important issue. We are at a crossroads time, it would certainly appear, with our Game and Parks Commission. You'll notice on General File we have a number of bills, or I guess it's not on there today, but been on General File about moving some of our recreation areas to villages and towns across the state. I think we have three different bills, if I'm not mistaken, on that issue that we'll have before us before long, and that became part of the discussion as we talked about this bill is, going forward into the future into this new decade, what more can we do to make Game and Parks more efficient and perform better. And we kept coming back to the fact that we really needed the ability or we need to give them the ability to change this fee to help maintain the parks and recreation areas that we have across the state. And I do see this as a user fee, plain and simple, not a tax, and I think that's a very important distinction that must be made in this area. And again, I support AM228 and LB421. Thank you, Mr. President. [LB421]

SENATOR CARLSON: Thank you, Senator McCoy. Senator Council, you're recognized. [LB421]

SENATOR COUNCIL: Thank you, Mr. President. I rise as well in support of AM228 and LB421 and I need to put my support in perspective. And I appreciate my colleagues who have expressed concern about the impact of an increase on this fee on low-income residents of the state of Nebraska, but I look at it from the context of the opportunity presented and what actual benefit is received by someone who purchases an annual park permit. With the purchase of that permit, they have unlimited access to all of the state Game and Parks facilities, and when I compare it to the cost of some other activities that our residents take advantage of, I think someone mentioned about the one-time admission to some of the museums, one-time admission to some of these water resorts, the annual cost of this permit pales in comparison to those. And in fact, I want us to take every opportunity to encourage residents across the state, regardless of

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their socioeconomic status, to take advantage of the programs that are offered in our state parks. I am also involved in another initiative involving our state parks that is going to provide more exposure to the state parks, exposing more people who ordinarily don't see the advantage presented by attendance at our state parks. I think that working together, providing state parks with adequate resources so that they can maintain the current condition and improve those conditions I think will result in an increase in participation at our state parks. I think the other initiative that will be coming hopefully out of the Natural Resources Committee will provide additional opportunities for individuals to take advantage of all that our state parks have to offer. And I'm looking at this as a promotion, promotional opportunity. I guess if I'd had my druthers, I would have preferred a greater increase of the nonresident permit because I think we're below what our surrounding states charge for nonresident permits on an annual basis. But this I think, the \$5 increase, in the scheme of things is nominal since it is a \$5 increase on an annual permit and I would hope that people who purchased the permit would want to get a return on that investment and would utilize our parks at a greater level than they may have utilized them in the past, and will enable our Game and Parks Department to provide the kind of quality recreational services and programs that our residents deserve. So I hope that all of my colleagues will see the wisdom and the value of advancing LB421 with the committee's amendment. Thank you. [LB421]

SENATOR CARLSON: Thank you, Senator Council. Senator Pirsch, you're recognized. [LB421]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Pankonin might rise for a question or two. [LB421]

SENATOR CARLSON: Senator Pankonin, would you yield? [LB421]

SENATOR PANKONIN: Certainly. [LB421]

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SENATOR PIRSCH: Thank you. Trying to get an understanding of, you know, and I kind of take a different position. I understand that substantively there's a difference between a tax and fee, but the end result is it hits the average Nebraskan in the same place--the pocketbook. And so I'm trying to understand, with the raising...first of all, were Game and Parks, were they cut back this year, trying to understand the need or necessity for raising this, or is this something that didn't happen exactly this year but just over the course of time? [LB421]

SENATOR PANKONIN: Senator Pirsch, over time the Game and Parks has had to rely more on the user fee. State support has gone down over time, as I mentioned in my opening. The head count of people that work in the system is down from 216 to 179. They've had to rely on the fees to a greater degree. Of the handout I passed out of the states that are around us, our system relies on the user fee more than any others. [LB421]

SENATOR PIRSCH: Substantively, what is missing that the Parks feel we really are behind in this area, we need this infusion of cash this year, in a down economic year? [LB421]

SENATOR PANKONIN: Well, I think this comes back to what people have said on the floor. Maintenance has already slipped. They're mowing less. The quality of the park experience, we've had quite a few comments that they can tell that deferred maintenance is becoming a factor. And I mean it's just going to be untenable going forward if we don't get this increase, that the park system will have to close some of their facilities and just do less, and it will become a very difficult situation for them. The last page of the handout showed that they're already \$5 behind, \$5.33 behind the CPI adjustment. [LB421]

SENATOR PIRSCH: Okay. Now this measure would raise, well, in 2012-13, about \$1.8 million, right? I mean that's the infusion. [LB421]

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SENATOR PANKONIN: Yes, the fiscal note over that period. [LB421]

SENATOR PIRSCH: And I guess part of the permits that you can get are for out-state residents and part for in-state individuals. I know I've talked with Senator Schilz before, in his part of the state, out in Ogallala and Lake McConaughy, about not a lot of opportunity. You know, a lot of people from the front range come into that area but then not much economic activity spent by these Coloradoans out in his area of the state. I notice though that the structure of this fee increase applies to...equally to Nebraskans as it does out-state people. What was the idea behind that? [LB421]

SENATOR PANKONIN: Well, I can't speak for Game and Parks specifically. I think there's been this relationship in the past. You know, I don't know the particulars on the Lake McConaughy situation. I'm sure Senator Schilz could tell us more about that. But I would assume those people still have to buy gas, stop at places along the route and spend some money in Ogallala and in the park area. But as far as changing it, the relationship, I think that's been a continuation of where we are. [LB421]

SENATOR PIRSCH: Do you have an understanding of whether or not this bill is likely to be vetoed if it is approved here today? [LB421]

SENATOR PANKONIN: Senator Pirsch, I don't know for sure. You know, obviously, when I... [LB421]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: One minute. [LB421]

SENATOR PANKONIN: ...introduced it, made it my priority, I assumed that could be a possibility but I have no way of knowing for sure. But we'll have to see. [LB421]



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SENATOR PIRSCH: Very good. I would...that's all the questions I have. Thank you.  
[LB421]

SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR86 and LR87. Continuing with discussion on LB421 and AM228, Senator Fischer, you are recognized. [LB421 LR86 LR87]

SENATOR FISCHER: Thank you, Mr. President and members. I rise in support of the amendment and of the bill. Our state parks are important to all Nebraskans. They're gems in this state, but they need to have money to be taken care of. They're not being taken care of now, many of the parks, many of the recreation areas. If you remember, last year I had a bill that turned over state recreation land to the communities of Atkinson and Arnold, and that's because Game and Parks could not take care of those areas anymore. The people in the cities now are mowing the grass, they're taking care of it. If you look at your agenda that's in front of you now, you'll see that Senator Utter, Senator Heidemann, Senator Sullivan all have bills currently on the agenda that will transfer Game and Parks property to different communities in their legislative districts. That's because Game and Parks cannot take care of the resources that they have now. We need to pass this increase. I echo what my colleagues have been saying. It's a reasonable increase. If we're going to maintain these facilities, if we're going to maintain these areas for the citizens of our state, we need to be responsible. We need to step up to the plate or we need to make the decision that we should close them. I don't think the citizens across the state who take advantage of those areas want to see them closed. We're asking for a \$4 increase in a user fee to be able to enjoy the parks that we have in Nebraska. I think that's reasonable. I think it will be helpful for the Parks Division of Game and Parks. I want to see them be able to maintain the facilities and the recreation areas that they have in the state, so I support the bill. Thank you, Mr. President. [LB421]

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SPEAKER FLOOD: Thank you, Senator Fischer. Mr. Clerk, items for the record.  
[LB421]

CLERK: Mr. President, your Committee on General Affairs chaired by Senator Karpisek reports LB56 to General File, and LB554 indefinitely postponed. Priority bill designations: Transportation Committee selected LB477 and LB112 as their two committee priorities; General Affairs has selected LB286 and LB407 as the two committee priorities. Amendments: Senator Hadley, an amendment to LB41 to be printed; Senator Flood to LB20. And a series of resolutions, LR106, LR107, LR108, LR109, and LR110, all will be laid over, Mr. President. Name adds: Senator Fulton to LR40CA and Senator Larson, LB229. (Legislative Journal pages 785-790.) [LB56 LB554 LB477 LB112 LB286 LB407 LB41 LB20 LR106 LR107 LR108 LR109 LR110 LR40CA LB229]

And I do have a priority motion, Mr. President. Senator Avery would move to adjourn the body until Wednesday morning, March 9, at 9:00 a.m. []

SPEAKER FLOOD: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel) []